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SHEIKH SADIQ CORRESPONDENCE

(AUGUST TO OCTOBER 1956)

MRIDULA SARABHAI

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SHEIKH ABDULLAH ON J & K STATE PROBLEMS—

SERIES No. 1

Abdullah, Mohammad, Sheikh

Sheikh-Sadiq Correspondence

[AUGUST TO OCTOBER 1956]

MRIDULA SARABHAI

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INDEX

Contents	Page
PREFACE	(i)
CORRESPONDENCE	
Sheikh Abdullah's Letter— Dated 16th August '56	1
G. M. Sadiq's Reply— Dated 11th Sept. '56	5
Sheikh Abdullah's Reply— Dated 26th Sept. '56	15
G. M. Sadiq's Reply— Dated 22nd Oct. '56	25
Sheikh Abdullah's Last Letter—Dated 28th Oct. '56	33
APPENDIX—1	
Id Speech of 1953.	41
APPENDIX—2	
Sheikh Saheb's Letter to Maulana Masoodi—Dated 6th & 8th August, 1953.	48
APPENDIX—3	
Selected Abstracts from J & K State Legislative Assembly and Constituent Assembly official reports on debates held after 9th August, 1953.	54
ERRATA	Last

P R E F A C E

TO finalize the Constitution, Constituent Assembly of J & K State was convened on 10th October, 1956 by its President, G.M. Sadiq.

This was being done when an important section of its members, lead by Sheikh Mohammed Abdullah were in detention since 9th August 1953. Therefore exercising his right as once the leader of the House and as a member, Sheikh Mohammed Abdullah wrote to Khwaja G. M. Sadiq, the President on 16th August 1956.

This correspondence consists of the following letters :

- (1) Sheikh Abdullah's first letter dated 16th August, 1956.
- (2) G. M. Sadiq's reply, dated the 11th September, 1956.
- (3) Sheikh Saheb's reply to this, dated 26th September, 1956.
- (4) Sadiq Saheb's second reply, dated 22nd October, 1956.
- (5) Sheikh Saheb's final reply to Sadiq Saheb, dated 28th Oct. 1956.

The Constituent Assembly's last session was held on 25th January 1957. 15 months have since elapsed yet the official publication from the Constituent Assembly's Secretariat of the minutes of the Constituent Assembly sessions of October 1956 and January 1957 are not available to the public.

Constitutional justice demanded that the president of the Constituent Assembly should have conceded the detained member's request and published the same Correspondence in full.

This did not happen. Instead one finds the president, adopting an extraordinary partisan's attitude and bringing out distorted hand-outs. Thus the Constituent Assembly publication of Sheikh Sadiq Correspondence became an incomplete document.

Then with painful surprise one finds Information Service of India Kashmir Document No. 6—Sadiq Abdullah Correspondence, printed at the External Publicity Division Press—New Delhi also taking up and accepting the 2 letters as a complete document.

For months both these official publications created lot of misunderstandings and were mischievously used to build up prejudicial atmosphere against Sheikh Abdullah.

Therefore as per Sheikh Saheb's desire on 4th November and in December 1956 the full correspondence was circulated by me in two instalments. The first part consists of first 3 letters and the second one the remaining two.

(ii)

They are now being compiled and published herewith to enable the readers to fully understand the popular version of the happenings since 9th August 1953 in the J & K State.

Sheikh Saheb's own assessment about the situation that prevailed in and before August 1953 and his stand are also well explained in this correspondence.

As far as the President of the Constituent Assembly, Mr. Sadiq's version of the local situation is concerned, it would be of interest to the readers to compare them with his later publication Sadiq Bakshi correspondence of 1957, that preceded Sadiq Saheb's resignation from the National Conference. I have no doubt that the readers will be as much surprised, as we all were, to find the vast differences on evaluation of the situation that Sadiq Saheb's own letters exhibit, i. e. reference to it in his letter to Sheikh Saheb in 1956 and that of his to Bakshi Saheb in 1957.

Since Sheikh Saheb's release the demand for this correspondence being great, it was decided to publish it in the form of a booklet. But before it could be done, he was re-detained on the night of 29th-30th April 1958. Booklet Series 2 of this publication will consist of Sheikh Abdullah's speeches and statements during the short period of his freedom i. e. between 8th January 1958 and the date of his re-detention in the early morning of 30th April 1958.

On 9th August 1953, to justify the coup and sheikh Saheb's detention the authorities had declared that if he had not been arrested before the Id, his proposed Id speech would have endangered the security of the State. In that speech he was going to declare "Independence" of the State. Appendix I contains the draft of the proposed Id speech. I leave it to the readers to examine it and come to their own conclusion, as to whether it justified punitive action against Sheikh Saheb and the people of the State, as had been declared by Bakshi Saheb and authorities of the State.

Due to unavoidable circumstances proof mistakes are regretted.

Mridula Sarabhai

**Text of recent Correspondence between Sheikh
Mohammed Abdullah and Mr. G. M. Sadiq
President, J & K State Constituent Assembly.**
(From August 1956 to Oct. 1956)

To
The President,
Constituent Assembly,
Srinagar.

Dear Sir,

From the scrappy press report reaching here, I gather that you are contemplating to convene shortly a session of the Constituent Assembly with a view to finalise the constitution for the Jammu and Kashmir State. Obviously this is going to be the most important juncture in the history of our State. I, therefore, owe it to the suppressed millions of the country, as well as to the mighty mass movement led for their political and economic emancipation during the past quarter century, to warn you of the grave consequences likely to follow your contemplated action. Hoping against hope that you may still pause for second thought, however belated, and refrain further from the course of action that has paralysed public opinion and done disastrous damage to the growth of democracy, I restate these facts here and ask if the present circumstances and the prevailing climate can warrant and guarantee a constitution in accordance with the aspirations of the people.

With the coup of 9th August, 53, the first act of murder of democracy was committed when I was unconstitutionally and illegally removed from Premiership and simultaneously arrested and detained. This arbitrary removal from office of the Leader of the House, without a formal vote of no-confidence is without a parallel in democracy and spontaneous mass protests from every nook and corner of Kashmir have registered an unequivocal condemnation against it. The Government pitchforked into office in consequence of this coup, therefore, does not and cannot enjoy even the semblance of public confidence. Beyond doubt it would have tottered and collapsed soon after its inception, but for the wanton and widespread repression let loose by army, Indian Reserve Police, the Militia and other forces.

These agencies of brute force indulged in "shoot at sight" for long after 9th August and it is they, since reinforced by the special Police and gangsters of Peace Brigade, which sustain the present regime in office.

What followed 9th August is not unknown to you unless you find it convenient to forget. It is history now that promiscuous shooting took a heavy toll of peaceful men, women and children throughout the country, thousands of people were arrested and tortured in order to break them into submission. The victims included high government officials, respectable citizens, lawyers of high status, members of Consemby and many freedom fighters of our movement. When these third degree methods could not coerce them, the victims with bruised and broken limbs were whisked off to various prisons in the State. The number of those detained under house arrest at Ministers' residences, in so called hotels and other private buildings is legion and their tales of torture are equally heart-rending. This blood curdling drama went on for long unabashed and unabated. Kashmir was made a veritable hell and an iron curtain was thrown over the Valley, suppressing all facts from the outside world.

In these circumstances you convened a session of the Assembly in order to seek a vote of confidence for the new Government headed by Bakshi Ghulam Mohammed who was the chief actor in the bloody drama of August 53 with you as the main collaborator.

As soon as this information reached me in prison I lost no time in urging upon you the necessity of my presence in the House when the motion of no-confidence against me—or that of confidence in Bakshi Ghulam Mohammed—was to be discussed. I need hardly discuss the propriety and fairness of my request. As the Leader of the House as well as the Prime Minister, it was my unquestionable right to face the motion. All principles and precedents of democracy support this sacrosanct privilege. But obviously as you yourself were involved in the conspiracy, your own position was most untenable and precarious. You, therefore, found the only way to save your skin in refusing my request and thereby further committed grave violence to the principle of democracy. You should be aware of the fact that every member of the House has a right to be present in the House when any business is transacted. It is not the question of any numerical strength of his view that counts but his basic right to canvass support in the House that matters essentially. By refusing permission to other MLA's jailed in 1953 along with me, you usurped this right also. Thus you aided and abetted in trying

to hoodwink the world that the present regime enjoyed the confidence of the House. But everyone is fully conscious of the fact that a vote of the House obtained under such circumstances has not only no moral or legal value but is a positive fraud on democracy.

Of late a good deal of evidence has come to light which establishes beyond doubt that the 9th August coup was a result of deep conspiracy with communal and reactionary elements and other vested interests with whom the Bakshi clique joined hands in order to sabotage the great movement of which I have been the spearhead since 1931. The ruling clique has not only betrayed the fundamental principles for whose vindication hundreds of our comrades laid down their lives during the struggle, but has left nothing undone in order to crush the spirits of freedom fighters in the State of Kashmir, which is being ruled by a lawless law of Preventive Detention which authorises arrest without warrant and detention without trial for a period of five years. Not infrequent use is being made of this monstrous law and the axe often falls on the active members of the Opposition or those in the country whose legitimate political activities endanger your office. You must be aware of the instances in which this brutal law was used for extorting resignations from or for putting in the prison Constituent Assembly members for joining the opposition and even detaining people for publicising, speeches made on the privileged floor of your House. Even at present on the eve of your great venture of giving the country a Constitution, several important Opposition members are under detention and some others are let out on so called parole and are under most humiliating police surveillance for no fault other than that they have consistently refused to support your regime. To crown all this ignominious state of affairs, there is my continued detention without trial for the last three years extended from time to time for the sole reason of giving the present Government a fresh, albeit brief, lease of life.

As if this law of the jungle was not enough, your Government has at a huge cost built up a "civil army" known as 'Peace Brigade' or Special Police whose main task is to flog people publicly, rob them in broad daylight and commit other atrocities upon those who are in opposition to your Government and thus help it keep in office. This organization is mostly composed of gangsters, the scum of society with a shady past whose job is to strike terror among the peaceful citizens.

Civil liberties in the State have been buried deep, legitimate political activities are crippled and public life paralysed. Huge amou-

nts borrowed from India are being utilised in corrupting people, granting them contracts and other perquisites in order to prop up your regime.

By 9th August action as well as by the long record of black deeds in and outside the House, the present Government and the Assembly have completely forfeited the confidence of the electorate and they no longer represent the political and economic aspirations of the people. It will be the height of treachery if such a body sits to frame a fundamental law for the people and their future generations. Nothing can be worse betrayal of their aspirations. I feel, therefore, duty bound to ask you to desist from such a course of action.

History has produced many quizlings, but the world knows the doom of every enemy of the people. Nearer home in India even mightier stooges rose to thwart the progress of the majestic march of freedom. Though gold and guns gave them some respite by suppressing the freedom force for a while, yet the mass upsurge was too strong and in due course it overthrew both the stooges and their masters. I am confident that should you persist in your anti-people course of action and try to foist a constitution on the people of Kashmir, history will repeat itself and they will fight your designs to the bitter end.

Sub Jail, Kud.
Dated. 16-8-56.

I am,
Yours sincerely,
Sheikh Mohammed Abdullah.

Srinagar,

Dated : September 11, 1956.

From

The President,
Constituent Assembly,
Jammu & Kashmir Government.

To

Sheikh Mohd. Abdullah.

My dear Sheikh Sahib :

I have received your letter of August 16, 1956. I hope you will forgive me for the delay in sending you a reply. This was due to the fact that I was away for sometime in connection with the Education Ministers Conference at Delhi.

At the very outset I would like to point out to you that difference in political opinion can be properly evaluated only if our approach to them is calm and impersonal. Otherwise we lose the correct perspective and this always leads to a frustration in argument. I feel sure that if such an approach had been kept in view, the tone and tenor of your letter would necessarily have been different. I am impelled to invite your attention to some of the statements made in your letter which are either contrary to facts or suffer from gross exaggeration. I assure that this is due to an incorrect reporting of the situation to you by interested quarters who continue to serve their own ends by these tactics.

It is true that a session of the Constituent Assembly is proposed to be held in the immediate future with a view to finalising the Constitution of the State. You have objected to this procedure. In your objection I discern a painful reversal of all that you stood for as the leader of the national movement in our State for nearly two decades. The birth of the Constituent Assembly marked an important stage in our struggle for the establishment of democracy in the State. This step should have been taken much earlier, but for the delay which was caused by the unprovoked aggression committed on the State by Pakistan. Along with the appearance of this unsettling factor on our national scene, the Kashmir question became the subject matter of a reference to the Security Council where its background was completely distorted. Consequently conditions of uncertainty in the State were aggravated. It was with a view to putting an end to this uncertainty and state of indecision and drift that the General Council of the National Conference in its resolution on 27th October 1950 recommended :

"To the Supreme National Executive of the People to take immediate steps for convening a Constituent Assembly based upon adult suffrage and embracing all sections of the people and all the constituents of the State for the purpose of determining the future shape and affiliations of the State of Jammu & Kashmir. In this sovereign Assembly embodying the supreme will of the people of the State, we shall give ourselves and our children a constitution worthy of the traditions of our freedom struggle and in accordance with the principles of 'New Kashmir'."

Accordingly the Constituent Assembly came into existence. Reflecting accurately the character of the Constituent Assembly you said in your opening address of November 5, 1951 :

"After centuries we have reached the harbour of our freedom, a freedom, which for the first time in history, will enable the people of Jammu & Kashmir, whose duly elected representatives are gathered here, to shape the future of their country after wise deliberation, and mould their future organs of government. No person and no power stand between them and the fulfilment of this their historic task. We are free at least to shape our aspirations as people and to give substance to the ideals which have brought us together here."

There were two main objects before the Assembly which were in complete harmony with the aspirations of an overwhelming majority of the people of the State. They were .

- (i) To Terminate as early as possible the interim arrangements for the governance of the State without a legislature and substitute them by democratic organs having the sanction of the people through recognised democratic methods ; and
- (ii) To determine the future constitutional affiliations of the State.

With regard to (i) you stated :

"To take our first task, that of Constitution making, we shall naturally be guided by the highest principles of the democratic constitutions of the world. We shall base our work on the principles of equality, liberty and social justice which are an integral feature of all progressive constitutions. The rule of law as understood in the democratic countries of the world

should be the corner—stone of our political structure. Equality before the law and the independence of the judiciary from the influence of the executive are vital to us. The freedom of the individual in the matter of speech, movement and association should be guaranteed; freedom of press and of opinion would also be features of our Constitution."

And as for (ii) you placed before the Constituent Assembly three alternatives :

- (a) Accession of the State with Pakistan ;
- (b) An independent status for the State ;
- (c) Ratification of the accession of the State with India.

After ruling out the first two alternatives as unrealistic and contrary to the genius and traditions of our freedom movement, you stated :

"You are no doubt aware of the present constitutional ties with India. We are proud to have our bonds with India, the goodwill of whose people and Government is available to us in an unstinted and abundant measure. The Constitution of India has provided for a federal union and in the distribution of powers has treated us differently from other constitutional units.....In order to live and prosper as good partners in a common endeavour for the advancement of our peoples, I would advise that while safeguarding our autonomy to the fullest extent so as to enable us to have the liberty to build our country according to the past traditions and genius of our people, we may also, by suitable constitutional arrangements with the Union, establish our right to seek and compel federal co-operation and assistance in this great task, as well as offer our fullest co-operation and assistance to the Union."

After visualising the historic necessity for convening the Constituent Assembly and having so clearly delineated its main functions we had hoped that the process of Constitution making would be taken up with seriousness and speed. But unfortunately this sovereign instrument which came into being to put an end to the state of drift was itself subjected to a process of delay and drift. We are alarmed at this development and I who could perhaps comprehend the situation with some detachment on account of disassociation from your Cabinet for a long time, repeatedly brought to your

notice the dangers inherent in this position. I pointed out to you that the concurrent legislative functions of this Assembly were only transitory in nature and incidental to the basic task with which it was charged. But the emphasis unfortunately continued to shift from the constitution making aspect to more routine legislative functioning of this body.

It was only in August 1952 that the Delhi Agreement was concluded in which the respective areas of Union and State jurisdiction were properly defined. The Parliament of India on the one hand and the Constituent Assembly of the State on the other, set their seal of approval on this Agreement. While placing this Agreement before the Constituent Assembly on August 11, 1952, you made the position amply clear in your address to the House in the following terms :—

“The Constitution of the Indian Union, therefore, clearly envisages the convening of a Constituent Assembly for the Jammu & Kashmir State which would be finally competent to determine the ultimate position of the State in respect of the sphere of its accession which would be incorporated as in the shape of permanent provisions of the Constitution.”

You further added :

“I indicated in my inaugural address the scope of the decisions which I felt the Constituent Assembly would have to take. I listed four main issues as pertaining to the main functions of the Assembly, viz., the future of the ruling dynasty payment of compensation for land transferred to cultivators in the Big Landed Estates Act, ratification of the State's accession to India, as well as the framing of the Constitution of the State.”

You also stated :

“It is, of course, for the Constituent Assembly which is seized of these matters, to determine the extent and scope of the State's accession to India. The Assembly may agree to continue this relationship on the present basis or extend its scope as it might like and consider feasible and proper.”

Then followed, once again, a period of studied inactivity and what later events confirmed so piognantly, deliberate sidetracking of the main issue of completing the Constitution. I must state here

that the manner in which a section of the leadership of the National Conference argued and higgled while the Delhi Agreement was being negotiated, caused a suspicion in my mind with regard to their bona fides. I, therefore, advised you that any further delay in enabling the Constituent Assembly to complete its historic task would inevitably lead to the appearance of disruptive forces in the State. My advice went unheeded and the results that followed fully justified my earlier doubts.

From March 1953 right up to August of that year, we wrangled with the basic issues relating to the proposed Constitution and in spite of the best endeavours of myself and my colleagues both within and outside the Working Committee, a strong tendency was noticeable which reflected a process of drifting away not only from our basic commitments but also from the ideals which we held so dear. You will kindly remember that during the early phase of these discussions two main issues over which a difference of opinion existed related to the desirability of guaranteeing the Fundamental Rights to the citizens of our State to the same extent and in the same manner as were being enjoyed throughout the Union of India and also the necessity of investing the Supreme Court with the authority to enforce these rights. It is one thing to talk of freedom and the rights and liberties of the people in an academic vacuum; it is quite another matter to readily face a situation where these rights can be concretely guaranteed. Our advice to you was that the best way of fulfilling our lifelong dream of guaranteeing fundamental liberties to our people was to implement those parts of the Delhi Agreement which related to this subject. It was an unfortunate day for our country that you were ill-advised to miss this basic point under the influence of absurd legal quibblings of some of your colleagues. In this connection even at the risk of straining your memory I would take the liberty of reminding you of some facts relating to this controversy.

You will kindly recall that while we were discussing these issues in the Working Committee you made it clear to Mr. M. A. Beg that his argument had failed to make an impression on the Working Committee. Against this argument you set up a sub-committee consisting of the law-knowing members of the Working Committee to give their considered views on this subject. M. A. Beg was a member of this sub-committee and the Constitutional adviser, Mr. Justice Shahmiri was associated with it. We were due to meet in my office at 5 p.m. (some time in May 1953). All the members waited there

right upto 7 p.m. while Mr. Beg and Mr. Shahmiri were closetted with you in your room. At about 7 p.m. you along with Mr. Beg and Mr. Shahmiri came to my room where all of us were waiting. You addressed us in a peremptory manner and said that any discussion on the question of the jurisdiction of the Supreme Court and the application of the Fundamental Rights was not only unnecessary, but also unreal because you did not at all believe in the basis of our relationship with India. In this manner, this sub-committee came to an unceremonious end.

After that began the agonising search for alternatives to our accession with India. You will kindly recall that throughout this period you declared your fascination for independence of a truncated State which would, more or less, include only the Valley of Kashmir. You clung to this idea in spite of our solemn entreaties to you and irrespective of the weighty arguments you had marshalled against it on earlier occasions.

I could not be a helpless spectator of this tragic development in the situation. Having contributed in my own humble way to some extent to the freedom struggle in Kashmir, I felt impelled to write to you. In the note which I addressed to you on this occasion I requested you to arrest the deterioration in the situation and pointed out the harmful consequence of the totally unrealistic course that you were pursuing. I said :

“In the light of these observations I think that the problem has only one solution under the existing circumstances, and that is to finalise the accession of the State to India on a limited basis as already agreed upon between the people of India and those of the State of Jammu & Kashmir, represented on the one hand by the Parliament of India and on the other, by the Constituent Assembly of the State.”

I am sending you herewith a copy of this note so that you are able to recall what I had said.

In view of this it would be unfair to say that the decisions which you arrived at in the Working Committee were unanimous as a large majority of your colleagues held views contrary to your own on these fundamental issues.

This sharp divergence of opinion reflected itself not only in the Working Committee but also I learnt in your Cabinet also. The people in the country were bewildered and a process of severe disinte-

gration set in our body politic. You will remember that during those days I came frequently to see you and begged you to ponder over the consequences of your actions. I was amazed and shocked to see that the man who had led us through many a critical moment in our national existence should be a victim of his own hallucinations.

I was not associated with your Government and consequently I was in a better position to assess and judge independently the result of policies that were pursued by you. It was no pleasure for me to see that political instability and economic distress were rampant. The speeches delivered at several places in the Valley by some of your closest colleagues had the effect of inflaming communal passions and all those elements who were out to disrupt the unity and integrity of the State felt encouraged. Anything could have happened in that explosive atmosphere. We were virtually moving towards a disaster. I do not wish to say anything that might hurt you but it does seem to me that you were unfortunately led into moving towards a cramped and absolutely narrow approach to problems in utter disregard of the basic principles which informed our movement all along. It was extremely tragic to see you going against the current of world events and international developments without evaluating the consequences of your actions.

Under these circumstances I do not see how a parting of the ways could be avoided. This parting of the ways was extremely painful for me and undoubtedly for my colleagues also. Your contribution to the freedom movement in Kashmir is a part of history and will always retain a place of respect in my mind. This parting therefore wrenched my heart. But what sustained me and I am sure my colleagues too ever after, was the firm belief that we have continued the laudable traditions of our movement forward towards fulfilment, from the point where you deviated from them. And it is my hope that when the dust settles on the controversy of the day, the service that we have in our own humble way rendered to the cause we held so dear may be evaluated in its proper perspective.

It was against this background that I described the inevitability of the changes which occurred in August 1953.

In your letter you have referred to the disturbances which followed the 9th August 1953. You may perhaps remember that at that time I was not a member of Government of State. I had occasion in my individual capacity to travel extensively throughout the length and breadth of the valley. I can assure you that at no place nor any

occasion did I ever notice the Indian Army personnel being used to deal with the disturbances. I did, however, see some sections of the Central Reserve Police which had been called earlier by the Government to assist the State police to deal with the Praja Parishad agitation in Jammu. It is true that some people unfortunately lost their lives in these disturbances. It is always painful spectacle to see the death of ones countrymen under such circumstances. But as students of history and also with some experience of administration, we should fairly analyse the causes of such tragedy. I cannot help mentioning the fact that they were the victims of the frenzy and passion which were whipped up by some of your colleagues for many months and at which you, unfortunately, connived before the ministerial changes of August 53. These plain, simple people were led to violence and to their sad end consciously and unconsciously by those persons who are today the loudest in grieving over their fate. Here again I must contradict you about the number of dead.

Soon after the people in general began to see the reality of the situation which resulted in a quick subsiding of these disturbances, a Citizens' Committee, of which I had the privilege of being Chairman, was set up to afford relief to the dependents of the victims of these disturbances. I went from place to place not as a Minister, because I was not one, but as a citizen and I can assure you without any police escort or the company of any officials. We collected with deep care and thoroughness all the evidence relating to the deaths and the number was established as forty six. We gave adequate relief to the dependents of the deceased, who are being properly looked after I am not mentioning these relief measures in any way as a compensation for human life because a human being and his life is too sacred to be computed in terms of money. But I mention this in order to enable you to correct the grossly exaggerated reports which seem to have reached you.

Your information regarding "thousands of victims of third degree methods with bruised and broken limbs being whisked away to unknown places" has absolutely no foundation in fact.

You have also alleged the denial of civil liberties to the people of the State after the ministerial change of August 1953. This is somewhat surprising as after that date the area of individual liberty and freedom of Press etc., has been considerably enlarged and guaranteed both by the Constitution and liberal legislation. I hope you will forgive me if I described in some detail the state of our civic liberties as it obtain now in comparison to the period before August 1953.

Prior to August 1953 we had on our Statute book the J & K Public Security Act of 2003, the J & K Defence Rules of 1996, the enemy Agents Ordinance, the Hoarding and Profiteering Ordinance and the Food Offences Ordinance, etc. The law relating to preventive custody under the Security Act and the Defence Rules did not envisage any time limit with regard to the total period of detention of a person. Secondly the discretion to detain a person was vested in an officer of or above the rank of a sub-inspector of police. Thirdly no provision existed for the review of cases of detention by an impartial judicial authority. We have now, in supersession of several laws and ordinances which restricted the liberty of the citizen, a law of preventive detention which is in strict conformity with the Fundamental Rights as applied to the State of Jammu and Kashmir. A certain amount of deviation has undoubtedly been made in cases where a person is detained for reasons of security of the State. It is evident as long as a foreign country is interested in actively promoting subversion and violence within our State the Executive has to be armed with certain extraordinary powers. Even in this case these powers were reserved for a limited period only. I would like to point out to you that the number of cases in which action has been taken for reasons of security is very small.

May I remind you here that the Constituent Assembly took the most significant step towards the establishment of democratic rights for the people of the State by applying the Fundamental Rights of the Indian Constitution to ourselves and also by vesting in the State High Court and Supreme Court of India the authority to enforce them. This in itself is a far reaching change. This will make it clear to you that what you had promised to the people of the State in your address to the Constituent Assembly on November 5, 1951, by way of civil liberties and fundamental freedoms was achieved by us in fact within less than six months from August 1953.

Today the people of the State are enjoying the benefits of security and freedom as a consequence of their association with the great democracy of India. These were denied to them not by me and my colleagues but by those who thwarted at every step the finalisation of our constitution as well as the implementation of the Delhi Agreement. We have now attempted to restore a position of normalcy by doing away with all the old unpopular laws and have enabled our countrymen to enjoy a greater measure of freedom than ever before. Whatever inadequacies may be felt in this field at the present moment are bound to be remedied with the finalisation of our Constitution.

In your letter you have characterised the task of finalising the Constitution as undemocratic because, according to you "the Constituent Assembly has forfeited its representative character." The only argument which I can read in your letter in support of this view refers to the ministerial change of 1953 and the absence of a few members from the Assembly. As I said earlier, the legislative function to which belong the formation and changing of a ministry were only incidental and subsidiary to the main function of the Constituent Assembly. The sovereign character of the Constituent Assembly can neither be affected nor abridged by these secondary legislative functions. The absence of a few members from its deliberations cannot either in law or in fact alter the representative character guaranteed to the Assembly by the total adult vote of the State. I find it difficult to reconcile your present views not only with what you have authoritatively pronounced about the Constituent Assembly in the past but also with the fundamental principles governing the sovereignty of this Assembly. In view of this is it undemocratic, I may ask, to give our people a Constitution which had been promised to them and open before them great opportunities for democratic progress?

I have written to you in some detail as I recall at this moment our past association and the traditions that had been fostered by the National Conference under your leadership ever since 1931. You will remember the gratification we felt when we were able to incorporate all our aspirations in the programme of New Kashmir. All along, in spite of adverse currents which threatened to stifle our freedom movement, history has been moving in the direction which we visualised then and our actions therefore stand justified by the course of events. The fears and doubts that you had started entertaining have proved groundless and the atmosphere of uncertainty and drift has been finally ended in accordance with our expectations. The benefits of our association with India are becoming evident by the pursuit of vigorous economic policies and a new life is consequently beginning to awaken among the age-old poverty-stricken masses of the State. Political controversy in regard to the future of the State is dead and buried and the irrevocability of the State's partnership with the Indian Union has become an accepted fact.

All this has vindicated our actions and policies. We are, however, deeply pained that even today, you who initiated these policies should

continue to think in terms and language which are hardly appropriate to the material change in the present situation.

I earnestly hope that you will reconsider the position with calm composure against the background of developments that have come about both in India and abroad during the last three years so that you can appraise the situation in the State more objectively and dispassionately. I have no doubt that in this perspective you will be able to judge us better and also the policies that we have pursued so far.

I hope you are keeping well.

G. M. Sadiq

Sub Jail, Kud.
26th Sept. 1956

Dear Sir,

I am in receipt of your letter dated the 11th September 1956 in reply to mine of 16th August 1956.

I regret to note that you have totally sidetracked the issues raised by me. I had addressed my communication to you solely as President of the Consemby and as Speaker of the Legislature and had specifically pointed out that the Government as well as your party in the Assembly have "completely forfeited" the confidence of the electorate and they no longer represent the political and the economic aspirations of the people." Accordingly you have no right to foist a constitution on the people.

On and after 9th August 1953 you continued to hold the office of the President of the Constituent Assembly as well as the Speaker of the Legislature. The solemn duties and responsibilities that devolved on you as custodian of rights and privileges of the electorate were both grave and delicate. According to accepted democratic tradition all party affiliations are deemed to cease with the assumption of such an office and the incumbent is supposed to keep himself scrupulously detached and hold the scales of the balance even. It would not be difficult to answer the question whether you kept up your own conduct to that high standard on and after 9th August 1953 if I ask evaluation of facts in retrospect "with calm and impersonal approach," of which you have been pleased to advise me.

Immediately after my arrest you were the first person to characterise the 9th August action as "appropriate and opportune". You rushed to Delhi and Bombay soon after and accused me of having conspired with some foreign powers in order to convert Kashmir into a second Korea. You threatened that the Government were in possession of unimpeachable evidence to establish the charge. Though more than three years have passed by, the so-called evidence of these wild charges has yet to see the light of the day. Incidentally it is rather amusing that in your somewhat lengthy letter under reply, there is not even a mention of this much parroted pet story of foreign intrigue.

You called a session of the Assembly on the 5th October 1955 in order to cover the highly arbitrary and unconstitutional action of the Sadar-i-Riyasat. He had dissolved my Cabinet on 9th August 1953 and thus removed me from office on the plea that I had lost the confidence of the majority of my colleagues in the cabinet. The post facto ratification of this highly arbitrary act was sought from the Assembly two months later. The procedure is unique and novel in the history of democracy. Even if some of my colleagues had any difference of policy with me (of which I was not made aware till the morning of 9th August 1953) the established procedure for them was to resign from office and approach the House by a formal vote of no-confidence motion against me. If the motion were carried I would have tendered my resignation. This established practice and procedure of parliamentary democracy was thrown to winds and the Sadar-i-Riyasat took the initiative himself without any legal power vested in him under the State constitution. Even his subsequent appointment of Bakshi Ghulam Mohammed as Prime Minister was arbitrary and unconstitutional. At that moment of crisis the party position being unknown, the Sadar-i-Riyasat could have had no idea about Bakshi's backing in the House. His action, therefore, clearly indicate that he was acting not as an independent constitutional Head of the State but as mere partisan.

In the atmosphere of brutal repression that followed my arrest, a large number of MLA's was jailed or put under house arrest and the rest, though nominally free, were under a constant threat of arrest and persecution. Gradually only those MLA's were released who gave an unequivocal assurance of supporting Bakshi and approving the 9th August action of the Sadar-i-Riyasat. Even in such circumstances I requested you to arrange my presence before the

House so that I could answer the charges that would have brought against me by the interested members of the House. I addressed the following telegram to you on 30th September 1953 from Udhampur detention camp:

"Learn Assembly session fifth October. Issues touching my status being raised Stop Request you as custodian of our rights and privileges to arrange mine and other detenue members' presence in session."

I also addresseed the following telegram simultaneously to the President and the Prime Minister of India :

"Kashmir Assembly session from fifth. Vital issues touching my position and status likely to be raised. Have appraoched the Speaker for arranging my presence in session. Request you to facilitate by your advice and guidance. Issues concern constitution and democracy whose cause has all along been dear to you."

All my efforts to explain my position to the House, however, came to naught and you most arbitrarily denied that unquestionable privilege to me and exparte decision was obtained from the House against me. Had you acceded to my request then, I would have gladly answered all the charges that were brought up against me. In fact, as the above telegrams will prove beyond any doubt, I was myself willing and anxious to have such an opportunity. But this was denied to me. You now desire to raise issues post facto in your correspondence. It is a queer forum that you choose now and I am sorry I cannot oblige you. Besides, it will serve no purpose to discuss such issues with you or at your level.

You have brushed aside the events of 9th August 1953 and the series of undemocratic and unconstitutional actions that followed as mere "ministerial change", "conveniently ignoring the basic issues inherent in the democratic process. It appears useless to me to impress on you again that it is a member's fundamental right to be present in the House and canvass support for his views that essentially count. The arbitrary arrest of the important members of the opposition party of the House and their continued detention can hardly be explained away in the way you have done.

You have quoted extracts from my speeches before the Assembly and from National Conference resolutions. The full text of these is

not available to me. I, however, do not disown my responsibility for them, but I am perfectly clear in my mind that they are wrenched from the context. These speeches, it should be noted, were delivered in the background which has undergone a complete change. It would be extremely unfair to read them divorced from that background.

It is in this background that a special session of the Working Committee of the National Conference was called at my residence in May 1953. The three main issues came up for discussion were :

- (a) The political situation vis a vis Indo-Pak dispute over Kashmir.
- (b) Application of fundamental rights to the people of J & K State.
- (c) Extension of the jurisdiction of the Supreme Court to J & K State.

With regard to (a) the Working Committee after prolonged discussion came to the unanimous conclusion that the internal stability of the State was impossible so long as international settlement on the final affiliation of the State was not achieved. It accordingly appointed the 8-men sub-committee to explore avenues of an honourable settlement of the issue. This committee had several meetings at my residence and the proceedings of these meetings were daily got confirmed. I quote below an extract from the final session of the committee's minutes, held on 9th June, 1953 :

"As a result of the discussion held in the course of various meetings, the following proposals only emerge as possible alternatives for an honourable and peaceful solution of the Kashmir dispute between India and Pakistan:

- (a) Overall Plebiscite with conditions as detailed in the minutes of the meeting dated 4-6-53.
- (b) Independence of the whole State.
- (c) Independence of the whole State with joint control of foreign affairs and defence.
- (d) Dixon plan with independence for the plebiscite area.

"Bakshi (Ghulam Mohammed) Saheb was emphatically of the opinion that the proposal (d) above should be put up as first and the only practicable, advantageous and honourable solution of the dispute. Maulana Saeed, however, opin-

ed that the order of preference as given above should be adhered to."

You have accused me of "fascination for the independence of a truncated State which would more or less include only the Valley of Kashmir." In view of this extract I can only say that you are grossly unfair to me. In order to refresh your memory regarding your own attitude on the problem, permit me to quote from your note which you have kindly enclosed with your letter under reply. You said :

"There is of course one alternative that offers a democratic solution to the problem and that is the one suggesting an overall plebiscite. *Speaking personally I do not have any doubt about its democratic character*, but my main objection is to the agency which will conduct and supervise this plebiscite. If an agency consisting of India, Pakistan, Afghanistan, Soviet Russia and China could be created to supervise and conduct the plebiscite, I would suggest that we should immediately ask for an overall plebiscite. Failing this, we may ask for supervision commission representing all the members of the Security Council for ensuring a free and fair plebiscite in the State."

Should you still have any doubts as to the change in the background, I would refer you to Bakshi Saheb's press statement which he issued immediately after the two Prime Ministers' joint communique on the results of their meetings in Delhi in August 1953. The communique amongst other things declared :

"The most feasible method of ascertaining the wishes of the people was by fair and impartial plebiscite."

Bakshi Saheb publicly claimed that this decision was arrived at in full consultation with the Kashmir Government.

With regard to the application of fundamental rights to the people of Jammu and Kashmir, it is far from correct to say that the differences in the Working Committee "related to the desirability of guaranteeing the fundamental rights to the citizens of our State to the same extent and in the same manner as were being enjoyed throughout the Union of India, and also the necessity of investing the Supreme Court with the authority to enforce these rights." As you would recollect the sovereignty of the people of Kashmir had been accepted in the Delhi talks and it only remained to be examined

whether the fundamental rights, whatever their scope and extent, should be incorporated in the State Constitution exclusively or the chapter on those rights in the Union Constitution should be applied to Kashmir. The Working Committee unanimously agreed to the first course.

About the extension of complete jurisdiction of the Supreme Court, the opposite views were represented by Mr. M. A. Beg and D. P. Dhar, both of whom were asked to send in their memoranda to me, detailing their viewpoints, with the object of securing expert opinion. Mr. Beg duly submitted his memorandum but unfortunately Pandit Dhar failed to do so.

In view of what I have stated above it is unfair to say that "a large majority of my colleagues held views contrary to my own on these fundamental issues. You have further stated in your letter that "this sharp divergence of opinion reflected itself not only in the Working Committee, but as I learnt, in your Cabinet also." Let me assure you that nothing can be farther from truth. There never was any difference of opinion on political issues or our approach to them. In fact all important communications that used to go under my signature to the centre invariably were first discussed and got approved by the Cabinet. Of course, the difference arose only when I asked for the resignation from Pandit Shamlal Saraf on grave charges of maladministration. Perhaps some other members of the Cabinet, who were conscious of their own guilt, did not approve of this extreme step.

You have denied my accusation about the inhuman treatment meted out to thousands of Kashmiris by your government. You say that this allegation "has no foundation in fact." I can hardly expect a better answer from you. By your conduct during the past three years you have completely identified yourself with the perpetrators of 9th August coup. How is it possible to consider you as a detached observer or as an impartial citizen? You claim that as Chairman of the Citizen's Committee you, "collected with deep care and thoroughness all the evidence relating to the deaths and the number was established as forty six," will, I am afraid, not convince anyone. You would perhaps recollect that the number of those killed in August firings was first announced by Bakshi Saheb as three only. Then it became ten in 1955. Later on this number was raised to 36 and now you put it at 46. Every time it was claimed by those in authority that the figure had been collected with deep care and thoroughness. This con-

tinued elasticity of facts and figures of gravest implications is, forgive me to say, symptomatic of narration of other facts in your letter-under reply. By the way I had only mentioned in my previous communication to you that "promiscuous shooting took a heavy toll." The loss of even 46 innocent lives may not be heavy according to you, but it is none the less rather a strange contradiction of my assertion.

I am pained to notice that you have tried to explain away this loss of human lives as a consequence of the so-called "frenzy and passion which were whipped up" by some of my colleagues for many months. This is exactly how the old British regime and Maharaja Hari Singh's Government used to explain away and justify their acts of repression.

You want to assure me that "at no place nor on any occasion did I ever notice the Indian Army personnel being used to deal with the disturbances." I do not question your inability to notice it, but it is difficult for me to disbelieve the evidence of my own eyes. On the day of my arrest I was escorted from Badamibagh Cantonment under a huge contingent of heavily armed Indian troops to Udhampur detention camp.

About the role of the Indian Army in the 9th August coup, I give below for your information what a distinguished foreign visitor has said on the subject. The quotation is from a book "Two Nations and Kashmir" by Lord Birdwood who visited Kashmir in March 1955 as a State Guest. On Page 162 of the book he writes :

"Army leave was stopped and troops were alerted, Tanks appeared in the streets of Srinagar early on 9th August and a Gurkha battalion was posted at various key points in the area. A party of Gurkhas arrived to take over the premises at Lloyds Bank without any request from the Manager, who indeed asked them to leave."

You have expressed surprise at my allegation that "civil liberties have been buried deep, legitimate political activity is crippled and public life paralysed." You claim that after August 1953, "the area of individual liberty and freedom of Press etc., has been considerably enlarged and guaranteed both by constitution and liberal legislation." But before you congratulate yourself I would like to draw your attention as to how your friends and supporters have judged your claim. Shri Ashok Mehta, leader of public opinion in India and

a prominent member of the Indian Parliament, commenting on the complete absence of civil liberties in Kashmir declared in the Lok Sabha that "the soul of Kashmir is suffocated." Mr. Kamath, another important member of the Indian Parliament, referring to the grave malpractices committed by your Government in the last civic elections in Kashmir said in the Lok Sabha that "there is no democracy in that State."

Dr. S. N. Peshin, FRCS., Shri H. N. Dhar a leading advocate of Kashmir High Court and President of Srinagar Bar Association, Pandit J. N. Bhatt, a leading advocate of Srinagar and personal legal adviser to the Sadar-i-Riyasat, Shri P. N. Bakshi, a leading businessman of Srinagar and Shri B. N. Kaul, proprietor of Nishat Press, Srinagar who had all stood as independent candidates in the last Srinagar Municipal Elections, addressed the following telegram to the Prime Minister and the Home Minister of India :

"We were fighting municipal elections as independent nationalists. Before the polling day all sorts of pressure brought on voters by National Conference. Today worst type of malpractices by National Conference. Great violence used by them assisted by Peace Brigade and some Government officials. Many severely injured. Candidates their agents and Government officials manhandled. Police magistracy gave no protection. Were forced to boycott poll. Solicit open commission."

Incidentally I may mention here that as chairman of the Election Board, you were in-charge of these elections.

Similar malpractices were alleged to have been resorted to by your Government in the Jammu civic elections by all the opposition parties of that Province. I am sure you could not have missed the comment of the local as well as of the Indian Press on the way these elections were conducted by your Government and the party in power. It is indeed a sad commentary on the claim you have made in your letter that "the area of individual liberty has been considerably enlarged by your Government since August, 1953."

As you are no doubt aware, hardly any newspaper which is critical of the policies of the present regime in Kashmir is allowed to reach us. Besides all such papers have either been suppressed within the State or formidable obstacles placed in their way with the result

that they were forced to close down. From India only such papers are allowed entry within the State who are favourably disposed towards the present regime and the rest are usually banned. Even in this restricted contact with the Press instances of grave charges against the Government have come to my notice from the few papers allowed to me. The "Daily Martand" of Srinagar in its editorial "To the Custodian of democracy," writes :

"The recent elections in the State have opened the eyes of the people and they have started doubting the truth about the claim of the Government as herald of democracy. It is openly alleged that the Municipal elections in Srinagar were not just and impartial, the voters were harassed, forged votes were freely cast, the voters were mercilessly beaten and manhandled and many suffered grave injuries. Even the opposition candidates were not spared but were subjected to cruel torture and harassment. Even the press correspondents were beaten severely."

Concluding the paper says :

"The world is now fully aware of the fact that the Government's claim as custodian of democracy and civil liberties is false and baseless."

The same paper in another of its editorial of 3rd February 1956 condemns the severe beating of its Editor by National Conference workers and concludes "this instance has been stated to draw the attention to the insecurity of the press people. It is not necessary for the press to *always* support the Government and neither should Government resort to terror tactics if the Press be critical towards it."

A weekly, "Sach" of Jammu in its editorial of 16th March, 1956 appeals to the people of Jammu to save democracy from "the fascist tactics of the ruling party."

Yet another Urdu weekly of Srinagar, the "Kashmir" which is presumably a Government sponsored paper, writes in its editorial of 10th February 1956.

"The terrible conditions of the organisation (National Conference) can be realised from an instance that even on the day of elections some of the ruffians of the organisation misbehaved at the polling booths. It was not desirable nor proper to beat the Editor of 'Martand', Such acts never add

to the growth of democracy.....Democracy demands that political opponents should be faced by political ways and means and *not by danda and terrorism.*

I have deliberately refrained to refer to the inhuman treatment that is day in and day out being meted out by your Government and the party in power to my sympathisers and to the leaders and workers of the Plebiscite Front and the Political Conference. I have quoted only from these sources which can by no stretch of imagination be called as my friends. In the light of such observations it is too tall a claim to accept that "today the people of the State are enjoying the first benefit of democracy as a consequence of their association with the great democracy of India."

The fundamental rights you profess to have conferred on the people have been completely negatived by certain provisions of the Application Order of 1954. Thus I might more appropriately quote back a passage from your own letter :

"It is one thing to talk of freedom and rights and liberties of the people in an academic vacuum ; it is quite another matter to readily face a situation where these rights can be concretely guaranteed."

You ask me "If it is undemocratic to give our people a constitution which had been promised to them and open before them great opportunities for democratic progress." My answer is that the present regime and your party in the Assembly, by their action on and after 9th August 1953, have forfeited the confidence of the electorate to frame the constitution for the country. In fact you have proved yourselves as murderers rather than saviours of democracy. Should you, however, persist in your design, the only democratic course for you is to resign your seats from the Assembly and seek a fresh vote of confidence from the electorate under a completely free atmosphere and neutral auspices and thus establish before the world your representative character. Will you do it ?

I am,
Yours sincerely,
Sheikh Mohd. Abdllah

To

The President,
Constituent Assembly,
J & K State,
Srinagar,

Srinagar,
October 22, 1956.

To

The President,
Constituent Assembly,
J. & K. State, Srinagar.

My dear Sheikh Saheb,

I am in receipt of your letter of 26th September, 1956. The contents of this letter, in the main, seem to be an elaborate repetition of what you had said in your letter of August 16. In my reply to that letter I had endeavoured to clarify the position at some length, and to place the facts of the situation before you in a proper focus. It is with some pain, therefore, that I have noticed in your latest communication that you have once again declined to make a proper appraisal of the situation.

In my letter of September 11, 1956 I made a detailed analysis of the main issues, and I have nothing to add to it now. The competence of the Constituent Assembly to frame and give a Constitution to the people of the State remains unimpaired, notwithstanding what may have happened before and after August 1953. Indeed it would be contrary to the well established principles of democracy if such extraneous considerations were allowed to affect the sovereign character of the Assembly. It is, however, important that opportunity should be provided to members of all shades of opinion to participate in the deliberations of the Assembly when the Draft Constitution is taken up for consideration. It does not lie in the mouth of an individual or a group of individuals to arbitrarily deny representative character of this Assembly because it is proceeding to perform its task in conformity with the mandate with which it came into being and has the undoubted support of an overwhelming majority of its members and also the people at large.

This aspect of the powers and functions of the Constituent Assembly should not be confused with the activities of a Government or a Legislature. The opportunity to contest the popularity or otherwise of the policies of the Government will be available to any individual or party during the course of the elections which will be held after the Constitution is adopted. These elections will be held under the laws of the land and their impartiality and freedom shall have to be guaranteed under the Constitution.

You have stated that these elections should be held under neutral auspices. Am I justified in reading in your suggestion the old

desire to import, from the back door, foreign intervention in our internal affairs? As a matter of fact it is unheard of to derogate from the inherent authority of the State by seeking foreign supervision of the elections to a Legislature. This has not happened in any country and indeed we have no desire to serve as an example of such a novel procedure in our own State.

In this connection I had referred to some of the quotations from your earlier statements with regard to the sovereign character of the Constituent Assembly and the task before it. You have said that I have torn them out of their context. These statements of yours are public property now and any one who reads them will, I am sure, agree that not only have I preserved the context of these statements but also the consistency of your views till you changed them suddenly.

You have also said that it would be unfair to hold you to these views because the basis and background of our relationship with India had changed. I agree that this change had occurred in your mind before 9th August, 1953 and not on account of what happened on that day. The change of Government on the 9th August 1953, as I have said earlier, a logical termination of the events which you released by repudiating the views of the large majority of your colleagues in the leadership and the rank and file of the National Conference as also of the people of the State.

You have dismissed rather lightly the differences which arose between you on the one hand and an overwhelming majority in the National Conference on the other, on some of the basic issues which came up for discussion in the Working Committee. I was rather surprised to note that you have gone even to the extent of almost denying the very existence of these differences. In my earlier communication to you I contented myself with a narration of the broad outlines of the events which preceded the 9th August, 1953. I had hoped that as these events had taken place in the recent past it would not be necessary for me to burden you with a larger number of details. I am now obliged even at the risk of repetition to deal with this subject at greater length.

The Working Committee was convened to finalise a decision on the basic issues relating to the drafting of the Constitution for the State. As a matter of fact, for a number of days we dealt with these issues only and differences were noticeable on the application to our State, of the Chapter on Fundamental Rights in the Constitution of India and the extension of the jurisdiction of the Supreme

Court to the State. The question was not merely whether we should apply the chapter on Fundamental Rights of the Indian Constitution, to our State with such modifications and amendments as would preserve the rights of the permanent residents as also the validity of our land laws or whether that chapter should merely be reproduced in our Constitution.

A part from the fact that we were in honour bound to respect the solemn commitment made by us in the Delhi Agreement which you negotiated on our behalf with the Government of India the differences on this issue were not so small as you have tried to describe them but were basic and would have repudiated the very character of the Indian Federation within which the State held a special position. It is unknown in Constitutional law to conceive of a federating unit having fundamental rights different from those of the Union Constitution or in any way contrary to them. It is of course given to a federating unit to have ~~some~~ rights over and above the Fundamental Rights guaranteed by the Union Constitution but in harmony with them. This fact which is known to any student of Constitutional history was sought to be made into a formidable impediment. The inference was obvious, a section of the National Conference leadership was subtly, though inexorably, fomenting a separatist tendency. Your position with regard to the acceptance of the jurisdiction of Supreme Court was even more untenable.

In this context you have once again, referred to the inability of Mr. D. P. Dhar to give you a note in refutation of the argument advanced by Mr. M. A. Beg who sought to eliminate the jurisdiction of the Supreme Court from the affairs of the State. It is true that Messrs Dhar and Beg were asked to give their notes to the Working Committee on this subject, but soon after this decision was taken, it was superseded by another decision by which the whole problem was remitted to a sub-committee consisting of the lawyer members of the Working Committee. I have already told you how the work of this Committee was brought to nought by your sudden appearance in its first and last meeting when you said that "any discussion on the question of the jurisdiction of the Supreme Court and the application of the Fundamental Rights is not only unnecessary but also unreal" because you "did not at all believe in the basis of our relationship with India."

After this the whole matter regarding settling various principles of our proposed Constitution was shelved and instead, the discussion centered round various proposals with regard to the affiliation and the future status of the Jammu and Kashmir State. For days on you argued that the State of Jammu and Kashmir should be decimated in a manner so that the Jammu areas would be absorbed in India and the Poonch, Muzaffarabad and Frontier areas would be made part of the West Pakistan and the Valley of Kashmir declared Independent. We informed you that such a course of action was not only impracticable but would be ruinous for the people of the State. We also felt that, contrary to your belief, the independence of the Valley of Kashmir would not at all serve as a basis for bringing about a re-approachment between India and Pakistan but would be instrumental in throwing them farther away from each other. The Valley of Kashmir would thus be turned into a cockpit of international intrigue which would threaten the security of both these countries. But you refused to be convinced and instead you stamped us into discussing various alternative solutions of the Kashmir problem. To recall your own words on the subject you said, "Let us even think of fantastic alternatives."

The minutes of which you speak do not form a record of the official minute book of the National Conference Working Committee. The note I sent to you, both as member of the Working Committee, and its eight man sub-committee against all these "fantastic alternatives" demonstrates the lack of unanimity in our views. At this stage the differences in the Working Committee took a grave turn and you and Mr. Beg started talking of them publicly. I spoke against the Independence of the Kashmir Valley in a public meeting at Ompora which was attended by a large gathering. Bakshi Sahib in reiteration of his earlier stand also spoke in similar terms at Kulgam. Meanwhile the whole of the National Conference and the people at large were seized of these differences and a state of bewilderment and dismay prevailed.

These differences reflected themselves in the elections to the various organs of the National Conference which were being held at that time. You will remember that your nominees in these elections to some of the local committees in Srinagar were utterly defeated. I had incurred your severe wrath by publicly denouncing your pet idea of Independence and in spite of your active opposition, I was elected by hundreds of delegates to the District National Conference of Srinagar as the Chairman of the Reception Committee for the

annual session of the Conference. You threatened to take the decision of the District Conference as a vote of no confidence in your leadership and insisted annulment. Almost all the delegates refused to do so. In this manner it became evident to you that your deviation from the basic policies of the National Conference was being repudiated by an ever increasing section of the rank and file of the National Conference. Similarly in other places, notably in the District of Anantnag, the large majority of the District Organization refused to subscribe to the views of Mr. Beg, who was the main spokesman of your revised views. As soon as you felt that the verdict of the National Conference was going against you, you as the President of the Organisation decided in a highly arbitrary manner to postpone the elections.

After thus having avoided to face the verdict of the Political organization of which you were the head, you proceeded to discredit the Constituent Assembly because it had become equally obvious to you that you would not be able to draw support from that body for your revised policies. Your public statements in the first week of August, 1953 in which you derisively attacked the Constituent Assembly will bear testimony to this.

Having rendered yourself free from the only two democratic forums where you could have tested the popularity or otherwise of your new policies you sought to rely on the State power as the Prime Minister to whip up mob frenzy and create conditions of chaos and confusion in the State. As a part of this you began one by one to eliminate those members of the Cabinet whose views were inconvenient for the fulfilment of your designs. In your letter under reply you have admitted that Pandit Sham Lal Saraf was not going to be the last but the first victim of your new policy.

Who then flouted ordinary canons of democratic procedure, you or we? It could only be either in the National Conference Organization or in the Assembly Party that you should have secured an enlistment of your revised policy. Realizing fully that you would have to face an over-whelming opposition there, you proceeded to bypass both. The evidence of this fact was amply provided by the subsequent decisions of the General Council of the National Conference and of the Legislative Assembly. In the Assembly 65 out of 75 members voted in favour, four were absent and six in detention. Whatever wild allegations of repression and coercion may be levelled, it is impossible for anyone to bludgeon 65 members

out of 75 into giving an opinion contrary to their conviction. Even Messrs. Hamdani and Goni, who at that time voted in favour of the new Government and later joined the opposition party, have never said that they were coerced to vote for the Government.

Here I may mention in passing your complaint against my inability as the Speaker of the Legislative Assembly to secure your presence in the Assembly when you requested for it. I wrote to you then that my powers as Speaker were neither more or less than those which I enjoyed when you were the Head of the Government. I had to discharge my functions in accordance with the Rules of Procedure of the Legislative and could hardly arrogate to myself any authority beyond that given to me under these Rules. The office of the Speaker cannot impose itself as a super Government and issue fiat to the executive authority. Once the executive authority is satisfied that the being at large of a person, even though he may be a member of the Legislative Assembly, is against the interests of the security of the State, and his detention has been effected under the law of the land, the functions of the Speaker in such an event can not be stretched to annul the judgment of such an authority. If you remember, I wrote to you accordingly on that occasion.

While accusing me wrongly of quoting you out of context you have actually done so by quoting a paragraph from my note. In this note I had stated that one of the democratic solutions of the Kashmir question would be to hold an overall plebiscite. After having said so, I immediately proceeded to describe the impracticability of holding a plebiscite, a fact which had stood out clearly for many long and tortuous years after a reference was made to the Security Council. Excluding plebiscite as a solution which was not within the range of possibility, I said :

“The problem has only one solution under the existing circumstances and that is to finalise the accession of the State to India on limited basis as already agreed upon between the people of India and those of the State of Jammu and Kashmir, represented on one hand by the Parliament of India and on the other by the Constituent Assembly of the State.”

Since the Constituent Assembly was convened many international developments of grave significance took place. The most important of all was the promise which was later fulfilled of Military aid

from the U. S. A. to Pakistan. This created not only a new military situation but also a new political situation. That situation has become progressively worse because of the flow of this military aid to Pakistan and the conclusion of S.E.A.T.O. and the Baghdad Pacts. This new factor materially altered the context of the entire Kashmir problem.

Internally, the Government of the State succeeded in building up the tempo of developmental activity and the people of the State except those under the forcible occupation of Pakistan made great progress and experienced more prosperity than they had at any time previously. Nine years have passed since the Pakistani invasion of Kashmir and the people of the State feel quite settled now and determined to march ahead as part of India.

These subsequent events have proved beyond doubt that I was not far wrong when I stated that plebiscite may be excluded as a practical solution. During those days, you indicated that you did not feel sure whether India would ultimately accept the decision of the State Constituent Assembly if it ratified the accession of the State with the Indian Union. The irresistible logic of events of special and far reaching consequences have confirmed the impossibility and impracticability of a plebiscite in Kashmir and this fact has been recognised by the Government of India in the statement made by its Prime Minister in the Lok Sabha on 29th March 1956.

I must admit that it is not clear to us where you actually stand today. The parties which you have chosen to describe as your sympathisers, namely the Plebiscite Front and the Kashmir Political Conference are too small dissident minority groups professing strange politics. The Plebiscite Front ostensibly asks only for a Plebiscite but has refused times out of number to state as to what their advice to the electorate would be on the issue of accession. The Political Conference seeks to cancel our accession with India and make the State a part of Pakistan. The policies of these two groups have gathered very feeble and almost negligible support and the possibility of the survival of these groups as political entities is extremely remote in the face of the overwhelming opinion of the people of the State. Our people are tired of these purely disruptive tendencies and want to lead a life of security and stability as a part of India and to enjoy the fruits of democracy and economic plenty of that great country.

You have quoted some newspaper statements alleging interference in the civic elections in Srinagar and Jammu. I do not want

to quote the responsible organs of public opinion which have spoken well of the present Government and its policies. The very fact that unsavoury things can be said against the Government openly from the press and platform and inside the Legislature indicates the existence of conditions which are different from those existing before August 1953. In my letter of September 11, 1956 I pointed out to you at some length the changes which have been guaranteed by Constitution and by law with regard to the liberty of the individual. Anyone who studies them in relation to the conditions which obtained before 1953 will be impressed by the improvement. I need not labour this point any further because facts always transcend prejudice.

You have raised some other points in your letter which concern the Government directly. These matters do not strictly fall within the purview of the office of the President Constituent Assembly. I have, therefore, referred them to the Government for such action as they may deem fit.

Yours sincerely,
sd/-G. M. Sadiq

S. M. Abdullah, Esq.,
Additional Subsidiary Jail,
Kud.

Sub-Jail,
Kud.

28th October 6

To

The President,
Constituent Assembly,
J. & K. State, Srinagar.

Dear Sir,

I am in receipt of your letter dated 22nd October, 1956 which is in reply to mine of 26th September 1956. The letter was delivered to me by the Superintendent Sub-Jail on the 25th October, 1956 at 5 P.M. It is surprising that you should persist in continuing the correspondence even after my telegraphic request to you on the 19th October 1956 to place the correspondence on the table of the House. I had categorically informed you in my previous communication that "it will serve no useful purpose to discuss such issues with you or at your level" presumably, therefore, your intention to continue the correspondence is a deliberate attempt to create confusion.

I, however, read your letter carefully and the more I read of it, the more I became convinced that you attach no value to truth and correct statement of facts. Pre-possessed as you appear to be, it will serve no purpose to prolong correspondence with you on the subject. But since your letter under reply contains some glaring mis-statements on facts, I am compelled to take note of them and to clarify the same.

You have referred to the sovereign character of the Consemby and said that notwithstanding "what may have happened before and after Aug. 1953, its competence to frame and give a constitution to the people of the State remains unimpaired". You have further stated that "the powers and functions of the Consemby should not be confused with activities of a Government Legislature."

You conveniently forget the fact that in J. & K. State, the Consemby functions as the Legislature as well and therefore the members of the Consemby cannot escape the responsibility for the acts of omission and comission of the Government. I am, however, glad to note that you admit the importance of providing an opportunity to members of all shades of opinion to participate in the deliberation in the Consemby when the Draft Constitution is taken up for consideration. Did you do it? Since the coup of 9th August, 1953 you called the session of the Consemby several times and took many important decisions but you never cared to secure the presence of the House of several important detenue members.

In my letter of 26th September 1956 I told you that "the Govt. as well as your party in the Assembly have completely forfeited the confidence of the electorate and they no longer represent the political and economic aspirations of the people. Accordingly you have no right to foist a Constitution upon the people". In the closing paragraph of the same letter I said, "should you however, persist in your designs, the only democratic course for you is to resign your seats from the Assembly and seek a first vote of confidence from the electorate, under a completely free and neutral atmosphere and thus establish before the world your representative character". In your letter under reply, you have confused this with holding of elections for a Legislature and stated that "the opportunity to contest the popularity or otherwise of the policies of the Government will be available to any individual or party during the course of the elections which will be held *after the Constitution is adopted*". Holding elections for a Legislature is quite different from that of a Consen-
bly which has to perform certain basic functions. The elections to such a House must be absolutely free and impartial and the members elected must continue to enjoy the confidence of the electorate. I maintain that you and your party have lost the confidence of the people since you enacted the 9th August coup. Therefore, before framing a Constitution for the country, it would have been in your own interests to accept my challenge and to seek a vote of confidence from the people. Such elections must be conducted in a manner which will inspire confidence not only in the electorate but should also convince the world as to their impartiality and fairness. This is only possible if they are held under a neutral auspices and in a free atmosphere. This has become all the more necessary in view of grave allegations against the ruling party in last civic and other local elections to which I have already referred to in my last letter. You are yourself not averse to such an agency being brought in to supervise the plebiscite. In fact in your note of July 1953, you expressed the view that "if an agency consisting of India, Pakistan, Afghanistan, USSR and China could be created to supervise and conduct plebiscite I would suggest that we should immediately ask for an overall plebiscite failing this, we may ask for a supervision committee, representing all the members of the Security Council for ensuring a *free and fair plebiscite in the State*". This proves that you also consider calling in an outside agency very necessary to ensure the elections being free and impartial. If you did not consider bringing in U. S. S. R., China and other countries as "a foreign intervention" then how could you blame me now of inviting foreign intervention in our internal affairs

if I suggest neutral agency for the same purpose without even mentioning the name of any particular country ?

I have never made secret of the basis and the background of our relationship with India. If there occurred any change in this relationship, the causes and responsibility lie somewhere else. I am sure that the people of India as well as of the State would have appreciated the Id-day speech in August 1953 if it had been allowed to reach the press and the people or if Bakshi Ghulam Mohammad should have had courage to release my correspondence with Pandit Jawaharlal Nehru and Maulana Azad to press. He failed to do so and Panditji had not objected to it either.

You have again raised certain points regarding the application to our State of the Chapter on Fundamental Rights in the Constitution of India and the extension of the jurisdiction of the Supreme Court to the State. You undoubtedly know that in 1947 the J & K State had acceded provisionally to the Union of India in three subjects i.e. defence, Communication and Foreign Affairs. With regard to all other matters the sovereignty of the State remained intact. It was therefore entirely for the Consenbly of the State to adjudicate on such matters freely and without pressure from any outside authority and come to a final decision. Assuming for the sake of argument that there were some differences among the members of the Drafting Committee in regard to these matters, the proper forum to hammer out such differences was the Assembly. After all, one of the definitions of democracy is that "it is Government by discussion", which means in other words that there is to be no resort to violence and coercion by physical force. By enacting the coup of 9th August 1953 you and your other collaborators threw this fundamental principle of democracy overboard and banged the doors of discussion.

In this context your defence of D. P. Dhar's failure to submit his memorandum to me (and not to the W. C. as you allege) is wholly untrue. The decision of the W. C. asking Messrs. Beg and Dhar to hand over their memorandum to me was not superseded. In fact Mr. Beg did submit his note to me as I have stated in my earlier letter but Mr. Dhar failed to do so. This had no relation with a lawyers committee to which you have made reference in your letter.

You have repeated your charge against me for arguing for days in favour of independence of the Valley from the minutes of the committee in my last letter to you. With regard to authorship of this proposal, you have said that "these minutes did not form the National

Conference Working Committee" strange logic indeed ! The 8 men committee of top leaders of the National Conference was nominated by the W. C. of the National Conference to explore various suitable alternatives for the settlement of the Kashmir dispute and of the proceedings of the organization. I am, however glad to note that you have not challenged the authenticity of these proceedings.

As to your allegation that "Bakshi Sahab in retention of his earlier stand also spoke in similar terms at Kulgam", you have not stated what was his earlier stand to which he had committed himself. However, when I confronted you with a direct question to re-affirm your attitude, all of you categorically declared your adherence to the decisions already taken in the final meeting of 8-man committee. This was done in a meeting held at my residence on the 4th of August 1953 in which, besides yourself, the following were present :

- (a) Bakshi Ghulam Mohammad,
- (b) Mirza Mohd. Afzal Beg,
- (c) Mr. G. L. Dogra,
- (d) Mr. S. L. Saraf,
- (e) G. M. Hamadani.

The proceedings of this meeting were communicated by me to the General Secretary, National Conference, Maulana Mohd. Saeed who happened to be in Delhi. This letter has already appeared in the press and should have perhaps refrained from misunderstanding facts.

Your contention that my nominees in the elections to some of the local committees in Srinagar were utterly defeated, that inspite of active opposition you were elected by hundreds of delegates to the District National Conference of Srinagar as Chairman, Reception Committee for the annual Session of National Conference ; that a large majority of District organization of Anantnag refused to subscribe to the view of Mr Beg and finally that I as President of the organization decided in a highly arbitrary manner to postpone the elections is totally baseless, a complete perversion of truth. In fact the boot is on the other leg. When you and your other co-organizers of the 9th August coup realised that despite all your underhand tactics your men were being rejected by the people, all of you pressed for the postponement of the elections in the 4th August meeting referred to above which I had most reluctantly to agree to. Bakshi Abdu Rashid, brother of Bakshi Ghulam Mohammad and Tehsil President of Srinagar

had been suspended by me and a case was under enquiry against him for illegally taking away membership receipt books from the Central Office in order to boost up false membership. I was away at Pahal-gam when you surreptitiously got yourself elected as Chairman, of the Reception Committee and therefore the question of my opposition did not arise.

You have accused me of having tried to eliminate those members of the cabinet whose views were inconvenient for the fulfilment of my designs and that S. L. Saraf was not going to be the last but the first victim. As a member of the ruling clique, whose mal-administration has earned wide notoriety, nothing better could be expected from him. You deny that there were grave charges of administrative dereliction against S. L. Saraf. In case you have forgotten, I would like to refer you to another letter of mine written to Maulana Saeed on the 8th August 1953. This letter has already appeared in the press. Besides this, the relevant files of the enquiry are there for you to go through if they are not destroyed. I wish that the Government of India on whose guns and gold you maintain your existence were prepared to institute a thorough enquiry even as late as now, in all such matters, and into the corruption and nepotism that has a free play in the State now. Things in their true perspective would come to light and the world would look aghast. I hope you have not forgotten Bakshi Ghulam Mohammad's speech at Mujahid Manzil only a few days before the coup declaring his loyalty to me as his sixth article of faith. All this establishes beyond any doubt that there existed no difference at all between me on one hand and my colleagues on the other on any basic political issue.

In your letter under reply you have stated that it could only be either in the National Conference organization or in the Assembly party that I should have secured an endorsement of my policy. This exactly is my grievance. You and your other collaborators sabotaged the first course by the enactment of the 9th August coup and denied the other by refusing my presence in the Assembly. The meeting of the National Conference W. C. and the General Council had been fixed for the 24th and 29th August 1953 respectively and the notices issued. Had I had any desire of flouting the ordinary courses of democratic procedure I would not have informed the Maulana in my letter of 8th August 1953 that "If S. L. Saraf will not submit his resignation I will place the whole matter before W. C. and G. C. of the National Conference whose sessions are going to be held soon. After taking their decision I will place it before the Assembly party as these are the bodies whose decisions are final".

am enclosing the free translation in English of my two letters referred to above for ready reference. The points that emerge from these letters are :

- (a) That the Cabinet conflict had nothing to do with political or Indo-Kashmir relations; but was purely on the question of mal-administration, corruption and nepotism which I wanted to put right ;
- (b) Your charge that I wanted to flout the ordinary cannons of democratic procedure is entirely baseless ; and
- (c) Your accusation that I arbitrarily postponed the election is equally incorrect and devoid of any semblance of truth.

You have explained your inability to secure my presence in the House by taking cover under rules of procedure. Assuming that you could not arrogate on yourself the authority of the Government, you could have at least drawn the attention of those who had illegally and unconstitutionally usurped power to the grave harm which such course did to the ordinary cannons of democratic procedure, knowing very well that the Prime Minister and Leader of the House was going to be impeached in his absence, you failed to do even this elementary duty.

Referring to the post 9th August 1953 decisions of the so-called General Council of the National Conference and the Legislative Assembly you have said that "it is impossible for any one to bludgeon 65 members out of 75 into giving an opinion contrary to their conviction." Enough has already been said as to the methods employed by the ruling clique to secure such decisions. It is only the other day that Mirza Mohammad Afzel Beg and some of his party colleagues were re-arrested hardly five days after their release from a long detention and their only crime was that they had the courage to express views on the floor of the Assembly contrary to the interests of the ruling party. When according to Mr. Khrushchev, a dictator's hand could bludgeon a mighty nation of U. S. S. R. and the whole galaxy of her top leaders had to do things contrary to their convictions, the position of your party members in the Consenbly and General Council is not difficult to understand.

You have made a mention of the developmental activities in the State since 1953. Before you congratulate yourself on the success of your economic progress, may I draw your attention to a series of articles that have recently appeared in an Urdu weekly "Haqiqat" of Jammu on the subject. I hope you are aware that the Chamber of Commerce

of Jammu is expected to judge better the economic progress which you claim the State has made since 1953. However, these articles are a very bad commentary on your tall claim.

Referring to American Military aid to Pakistan and her joining the S. E. A. T. O. and the Baghdad Pacts, you have concluded that "This new factor materially altered the context of the entire Kashmir Problem". I am sorry to say that you have added nothing new to my knowledge but have only repeated your "Masters Voice". I fail to understand how the people of Kashmir who have struggled hard for the last quarter of a century to shape their own future should be denied this basic right by any one because another country has done something which is not to India's liking.

In 1931, a powerful mass movement directed against autocracy, economic and political exploitation of the people was forged by me which had an overwhelming backing of the people. It fought many battles and passed through troubles and trials during the past two decades and a half. The anchor-sheet of this mass movement was : "Sovereignty of the people," and in order to achieve the goal, the organisation had braved the Dogra repression, facing bullets boldly and passing through untold suffering. On the arrival of the Cabinet Mission in the sub-continent of India in 1946, I, on behalf of the people of the State, submitted a memorandum to the Cabinet Mission, challenging the Maharaja's competence to speak on behalf of the people and demanding unequivocally the termination of autocracy and acceptance of the absolute right of the people to decide their own future. A death-defying "quit Kashmir" struggle followed and the Dogra repression unleashed to quell the uprising took a fresh toll of martyrs. I was tried for sedition and sentenced to nine years rigorous imprisonment. At that time you and your present chief, Bakshi Ghulam Mohammad, had deemed discretion as better part of valour and left the state to enjoy the salubrious climate of Lahore. In this momentous trial which was conducted by no less eminent persons than Pandit Jawaharlal Nehru and late Mr. Asaf Ali, people's sovereignty was the crux of my defence.

In 1947, when the tribal raid across the border endangered the people's sovereignty and their right of self-determination, India came to our help only to defend this right of the people. Pandit Jawaharlal Nehru as Prime Minister of India, declared that "Kashmiris are the arbiters of their own fate". In his speech before the Security Council, the late Gopalaswamy Ayyangar, Leader of the Indian Delegation said :

"Whether she (Kashmir) should withdraw from her accession to India or remain independent with a right to claim admission as a member of the United Nations—all this we have recognised to be a matter for unfettered decision by the people of Kashmir after normal life is restored to them."

In view of the above unequivocal statement by the leader of India and there are many more such statements which I do not want to burden this letter with it does not behave you to say that since some country has entered into certain pacts of military nature with U. S. A. etc., therefore this has "materially changed the context of entire Kashmir problem."

Again you are wrong in assuming that since India's Prime Minister has expressed his opinion in the Lok Sabha about the impracticability of a plebiscite in Kashmir, therefore India's international obligations in this behalf have ended. I may add here for your information that on international levels India has not and cannot backout from her commitments unilaterally without a very grave risk to international peace. Even if she does adopt such a invidious course, the people of Kashmir will not be bound by that decision and in the very words of Pandit Jawaharlal Nehru, "Kashmiris are not mere chattel that they can be bartered—away on the free will of India or Pakistan or anyone else."

In closing, I would like to inform you that I am not inclined to enter into further correspondence with you on the subject and therefore this letter may be treated as a last one. I would request you, please, to place this letter also alongwith its enclosures on the table of the House.

Thanking you,

I am
Yours truly,
Sd./- Sheikh Mohd. Abdulla

The President,
Constituent Assembly,
Jammu and Kashmir State,
Srinagar.

APPENDIX I

"Id SPEECH"

Note : The draft of the Id Speech of Sheikh Mohammed Abdullah which was to be delivered at the Id Congregation on 21st August 1953, was received in Delhi in the first week of August 1953. As usual this was sent here for translation into Urdu and Hindi and getting copies printed for circulation on that day. This is now reproduced as Sheikh Saheb has referred to it in his letter dated the 28th October 1956, addressed to Sadiq Saheb.

Mridula Sarabhai

"For some time friends in India have wanted to get a clear idea of the developments in Kashmir. I have tried to explain these developments in my recent speeches. Unfortunately my attempts to focus public attention on these developments and to present a sincere and frank analysis of the situation obtaining in the State has been misconstrued. I have noticed that my efforts in taking the country into confidence and awakening the people to the realities of the situation have produced contrary effects.

I am conscious that millions in India are attached to Kashmir by association and sentiment. We have been brought nearer by suffering and sacrifice of the last five years for common objectives. It is easy to understand, therefore, that millions among the Indian people feel vitally interested in the events in Kashmir. If things go wrong here, they feel agitated and perturbed. Unfortunately, they are seldom told the truth or given a frank and sincere appraisal of the developments here. What they do get is either as a sop or a provocation to their feelings.

I shall try to give here a precise account of the situation in Kashmir. In the first place, let me say that after having waited for over five years for a settlement of the Kashmir dispute—which means more concretely, the settlement of their future and the generations to follow—the people of Jammu and Kashmir feel that they can no longer live in the present suspense. This uncertainty and suspense does not only tell on the minds and nerves of the people but also

affects activity of the Government in all directions. Almost all measures for raising the economic standards of the people carry a stamp of unreality in face of the over-riding uncertainty. Efficiency in administration suffers as the civil servants get mixed in opposite groups of power and vested interest. It becomes difficult to plan and delay occurs in the implementation of various nation-building schemes which must all wait for an over-all solution. The prevalent uncertainty encourages corruption and the unscrupulous make hay while the drift lingers on. In the meanwhile, the uncertainty hits the people economically as the old sources of income dry up and new ones are scarce to find.

A question arises why do the people feel any uncertainty about their future since the State has acceded to India and why is not this accession finalised, by a vote of the Constituent Assembly? This question is more simple to ask than to answer. Those who put this question are people with good faith and intentions. Unfortunately, in our eagerness to find a speedy solution of a difficult problem, we sometimes overlook the basic difficulty of the problem. The accession of Kashmir to India otherwise complete in all other respects, possesses one essential disqualification. It is an accession accepted provisionally being subject to subsequent ratification by the people and, therefore, lacking finality and as such a major contribution to the uncertainty itself. It is also true that Pakistan has come to occupy the position of a party directly and vitally concerned with this issue. It is important to bear this fact in mind when we propose, in our eagerness to end the uncertainty, to settle the issue of accession quickly. As if this factor did not create enough complications on its own, added to it is the fact that Kashmir problem continues to be a favourite topic on the agenda of the Security Council to be discussed when and as necessary and a matter of international dispute.

Then there is the suggestion that the accession should be finalised by vote of the Constituent Assembly. The question is: are decisions of the Constituent Assembly binding on India, Pakistan and the United Nations? The Government of India, as a principal party to the dispute, itself does not consider a decision of the Constituent Assembly on the accession issue binding on it. This is clear from the extracts quoted here from Shri B. N. Rau's statements in the Security Council as leader of the Indian Delegation in March 1951:

"I shall now turn to the matter which appears to have caused some concern to certain members of the Council, viz. the proposal

to convene a Constituent Assembly of Kashmir. As I have already said, Kashmir is, at present, a unit of the Indian Federation and has to be governed accordingly. When we were drafting the Constitution for India we had to consider of the various units of the Indian Federation. It was decided that the framing of these constitutions should be entrusted to a Constituent Assembly for the unit concerned. Accordingly several units have convoked constituent assemblies for the purpose e. g. Saurashtra, Travancore-Cochin & Mysore. Others have lagged behind for one reason or another. Kashmir is one of the units where the Constituent Assembly has not yet been convoked so that the Constitution of the State is still to be made. Honourable members will please note that the machinery of the Constituent Assembly was not devised only for Kashmir, but for other similar units of the Indian Federation as well. Indeed, it is recognised as the machinery for the framing of the constitution in most parts of the world. Accordingly provision was made in the Indian Constitution for a Constituent Assembly for settling the details of the Kashmir Constitution. Will that Assembly decide the question of accession? My Government's view is that while the Constituent Assembly may, if it so desires, express an opinion on this question. It can take no decision on it."

"This brings me to the subject of the Constituent Assembly which apparently continues to disturb some of the members of the Council. I have already explained my Government's views on the subject. Even in a Federation every State has the right to make its own constitution in its own proper sphere and to set up a special body for that purpose e. g. every State Constitution now in force in United States of America was framed this way. India cannot, therefore, prevent Kashmir, which at present is a unit of the Indian Federation, from exercising a similar right, which indeed is expressly recognised in the Constitution of India. Some members of the Council appear to fear that in the process the Kashmir Constituent Assembly might express its opinion on the question of accession. The Constituent Assembly cannot be physically prevented from expressing its opinion on this question, if it so chooses. But this opinion will not bind my Government or prejudice the position of the Council. I have already said this as a representative of the Government of India in this Council and can do no more than to express regret that in spite of the statements which I have made on behalf of my Government, the references to the Constituent Assembly in the preamble to the joint draft resolution should have been retained." (29.3.1951).

Another fact which needs mention is that nearly one-third of the State's area is un-represented in the Constituent Assembly.

Could a vote of the Constituent Assembly, therefore, produce a solution of Kashmir dispute and end uncertainty? I should say no.

I think here I should refer to the Delhi Agreements. These agreements were endorsed both by the Indian Parliament and the State Constituent Assembly and we are committed to them. The question, however, is would the implementation of the agreements in any way meet the demand of the people of the State to end the present uncertainty? No doubt these agreements are an attempt to define clearly the position of the State in India in regard to certain matters. Assuming that our Constitution would provide appropriate provision with regard to these matters and that these matters are clearly stated therein, the question is would we thereby succeed in finalising accession, the basic relationship. If this relationship itself is subject to ratification and therefore provisional, the character of the Delhi Agreements, which flow from such relationship must be temporary and interim and hence hardly contributing to a settlement of the State's future. So the uncertainty continues and the people grind and suffer.

Of late, fortunately, there is a marked improvement in the relations of India and Pakistan. The news of the recent meetings between the Prime Ministers of India and Pakistan in Karachi filled the people of the State with jubilation and hope. There is growing awareness among the people of the State that a satisfactory and lasting solution of the Kashmir problem is possible only if both India and Pakistan examine this problem from the interest of the good of the people of the State as a whole. The State of Jammu and Kashmir is so situated geographically that it depends for its economy on a free flow of trade to both countries. Within the State there are well demarcated cultural and ethnological groups who possess strong ties with neighbouring populations of West Punjab, N. W. F. P. and the East Punjab. In between these divergent influences is placed the Kashmir Valley and some of its adjacent areas. The people of the Valley have strong political bonds and association with the national leaders and people of India. In their struggle for freedom against autocracy in the past, they looked to the Indian leaders as allies. Themselves professing faith in secular principles, they look towards India for fulfilment of their social and political objectives. Since ages, Kashmiri arts and crafts have found markets in India.

At the same time, the rivers and roads of Kashmir stretch into Pakistan, while our only road to India remains blocked for nearly three months in a year. Kashmir used to get essential necessities from West Pakistan. Kashmir's rail-head used to be Rawalpindi and the traders in the Valley would use Karachi as the sea-port for over-sea trade. These circumstances lend overwhelming weight to the aspirations of the people of the State to secure the good-well of both India and Pakistan for their betterment and prosperity. They aspire that somehow the dispute should be settled in a manner as to allow them opportunities for national development based on Indo-Pak concord. In the face of this genuine popular feeling, the National Conference organisation opposes pro-merger sentiments of those cultural and ethnological groups whose sympathies and loyalties run outside their own State and the only result of whose activities would be to destroy the basic structure of the State.

In this connection, the activities of the Praja Parishad and the agitation carried in India in support of the Parishad deserve mention. The leaders of the organization played a prominent part in the unfortunate events in Jammu in 1947. They later emerged as a pro-India party demanding State's full integration with India. In December last year, they launched a "do or die" agitation for the fulfilment of these demands immediately producing repercussions in Kashmir and the Muslim population all over. The agitation was carried on with vigour with the material support and the moral backing it received in India. This came at a time when the Delhi Agreements conferring and confirming a special status on Kashmir in the Indian Constitution had just been drawn up. Pakistan Radio and Press fully exploited this situation. Added to the agitation, statements of certain Indian leaders were quoted to work up feeling amongst the Muslims. These statements said in effect that in the event of refusal by Muslims to accept the Indian Constitution in its entirety, they had no right to be the nationals of Indian territory—by which they meant Jammu and Kashmir State. The Parishad's anti-Muslim and anti-social past ill-fitted with its new-fangled love of the Indian Constitution and the Indian Flag. The support which Parishad received outside the State and the manner in which Parishad leaders were hailed in India made the ordinary Muslim feel whether the Parishad and the Indian Constitution were not complimentary to each other and whether he could at all rely on promises and guarantees which before the ink on the draft embodying them was dry, were in danger of

being forcibly altered if not altogether scrapped. The pro-merger agitation had, therefore, one effect : it weakened our position among the Muslims and literally poured cold water on the efforts of the National Conference to rally Muslim support for India all these years. All my appeals in this connection and even the appeals of Prime Minister of India went in vain.

I think it is not necessary for me to say the obvious, though I have repeated it so often : it is the Muslims who have to decide accession with India and not the non-Muslims as the latter have no place in Pakistan and therefore their only choice is India. My main anxiety and effort has not been to convince the Hindus and Sikhs that their future lay in India—the effort was unnecessary—but the Muslims who form the majority. In this task, I have found myself greatly misunderstood even by those who sincerely desire Kashmir to be part of India. I know of occasions when I have tried to satisfy the legitimate demands of Muslims or reassure their minds about the future when my friends have condemned me as a communalist and a turn-coat. What they expect me to do is difficult to fathom. The question is : must I or not carry the support of the majority community with me ? If I must then it becomes necessary that I should satisfy them to the same extent that a non-Muslim is satisfied that his future hopes and aspirations are safe in India. Unfortunately, apart from the disastrous effects which the pro-merger agitation in Jammu produced in Kashmir amidst the present growing fears and dissatisfaction, the Muslim middle class in Kashmir has been greatly perturbed to see that while the present relationship of the State with India has opened new opportunities for their Hindu and Sikh brothers to ameliorate their lot, they have been assigned the position of a frog in the well. The critics of our policy have made much capital out of the fact that the Muslim representation in the ceded services like the Defence, Posts and Telegraphs services, etc. has deteriorated and not improved in any way. What the Muslim intelligentsia in Kashmir is trying to look for is a definite and concrete stake in India. So the minds of the people in Kashmir have moved from fear to frustration and from frustration to near-disillusionment which I have tried to explain in my recent speeches.

These are harsh realities of the situation to which I would want the friends of India and Kashmir to be alive. It would hardly serve any purpose were one to shut one's eyes to these realities and believe that all was well and that no effort was required to resolve the situation.

As far as the leaders of the National Conference are concerned, we stand committed to our principles. Our pledge to the people to emancipate them from every vestige of exploitation remains unaltered. We stand equally for the rights of all, more especially of the down-trodden.

While the National Conference stands committed to the support that it gave to Instrument of Accession and the Delhi Agreements, the fact remains that the present situation of suspense has primarily to be resolved. The following factors bear on the situation :

- (1) Will public opinion in India, more particularly overwhelming majorities of the people of Jammu and Ladakh, accept the present relationship based on Instrument of Accession and Delhi Agreements as final and not to be altered in due course by coercion or otherwise ;
- (2) Would such relationship not be subject to change because of international factors ;
- (3) Would all sections of the State's people derive equal benefit from such relationship, irrespective of their caste or creed ;
- (4) Would it be possible under this relationship to overcome the difficulties presented by geography and nature which stand in the way of all-round economic prosperity of the State.

I am sure an objective and dispassionate appreciation of these implications of Kashmir situation will lead us to correct appraisal of the problem and to its practical solution and thus end the present agonising suspense”.

APPENDIX 2

Sheikh Saheb's letter to Maulana Masoodi

dated 6th & 8th August 1953.

(Free translation in English of the original in Urdu)

Letter of the 6th August 1953.

Dear Maulana Saheb :

I received your registered letter of 29th July and could not reply the same in time owing to my pre-occupations. Sofi Saheb and Ghulam Qadir might have informed you about the developments here. Those are as they were. You must have read the reports of Bakshi Saheb's and Sadiq Saheb's speeches as well as of Beg Saheb's and mine. On 4th August Bakshi Saheb, Dogra Saheb, Sadiq Saheb, Hamdani Saheb, Beg Saheb and Saraf Saheb met at my residence. I asked Dogra Saheb and Sadiq Saheb that as they were generally known to be communists what were their views regarding the Central Communist Party's proposals about Kashmir and did they consider those mandatory on them? I further asked them whether they agreed with those fully or partially? If partially, which were the portions with which they were in full agreement and with which they differed? Sadiq Saheb replied that he fully agreed with the Communist Party on the question of Kashmir's independence and its stand about Praja Parishad. He further said that he felt that people of Jammu have been very badly and cruelly treated by those in power in Kashmir; that this treatment no self-respecting people would tolerate and it was a pity that even if a peon had to be appointed at such a distant place as Basauli, he had to be either a Kashmiri Pandit or Muslim. He added that Praja Parishad tried to draw the attention of responsible authorities to the same from time to time and as a last measure they resorted to agitation. In short Sadiq Saheb not only expressed agreement with Communist line but used strong words to support it. Bakshi Saheb began to agree with him but I asked him not to do so as my aim was only to find out Sadiq Saheb's views.

Dogra Saheb said that he still held the same views about Kashmir's independence which he expressed several times in our meetings. He said that he did not agree with Communist Party's approach to this and other matters.

My second question put to Bakshi Sahab and Sadiq Sahab was as to why they had now retracted their previous agreement reached on various problems, in our last meeting, when the possible alternatives for solving Kashmir problem were agreed upon after months' discussions and when it was decided that members would not disclose the same. I told them that Bakshi Sahab's speech at Kulgam and Sadiq Sahab's speech at Ompora were in direct contravention of this decision. I showed them further newspaper reports and they said that it was correct. Bakshi Sahab said that he has not changed his views and that the stand taken by him in his Kulgam speech was the same as agreed to in the meeting. Sadiq Sahab said that Beg Sahab's and my speeches forced him to give expression to his views. I asked them to prove from the published reports if the stand taken by us was contrary to that agreed to in our meetings? They did not reply this question.

I said that the reason for unrest, which has spread in the State, was that we were speaking in different languages and that it was necessary for us to publish a joint statement on the present day problems of the State to check the growing unrest. Bakshi Sahab replied that a joint statement on any subject of the friends gathering, would not be the decision of the National Conference and so it would be necessary to call meetings of National Conference Working Committee and the General Council. It was decided therefore that a meeting of Working Committee should be held on 24th August and of the General Council on 29th August.

The friends gathered there asked me to postpone the Elections for the reason that decisions of our meetings, were announced, gave rise to conflicting points of view which were harmful to the unity and the larger interests of the country. I told them that this postponement will do more harm than good but they did not agree with my view and the Elections had therefore to be postponed. At 5 P. M. Presidents of the Halqa were called to my office for discussions of the postponement of the Elections and they were told that they should not act in a way which would harm the country. Bakshi Sahab and all other friends were present in this meeting.

I called Mohalla-walas of Malchamar in my office to discuss the allegations against Bakshi Abdul Rashid. Messrs Hamdani, Beg and Saraf were also present. Bakshi Sahab was also present but he left soon, after having stated that as the allegations were against his brother, he did not think it proper to stay. Mr. Hamdani's report on this case was with the charges against Bakshi Abdul Rashid could not

be proved as the peons went back on their statements made previously. Statements of Bakshi Rashid were taken regarding the second charge against the latter for having taken receipt books surreptitiously from Badgam. These statements proved that the receipt books were taken solely for illegal use. This case is still being investigated. I am waiting for you and the matter will be referred to the Working Committee.

Hamdani Sahab is doing quite well as General Secretary. I have seen your statements in press.

Since the Elections have been postponed now and the Working Committee will meet only after Id, I think you can stay in Delhi upto Id.

Yours Sincerely,
Sd/-Sheikh Mohd. Abdullah

Letter of the 8th August 1953.

Dear Maulana Sahab :

I have received your letter of 4th August. I never refused to meet any body. On the contrary it has been a pleasure to exchange views on problems of Kashmir with friends coming from India. It is also wrong that I have spoken bitterly against Panditji and Maulana Sahab. I did say that as far as aims of Praja Parishad and Jan Sangh are concerned, no one, with a noble exception here and there, has spoken a word against their basic stand although their methods and approach have been condemned.

You must have read the news of the postponement of Elections and I hope you have received my letter in which I have given you details about it. Today Ahsanullah rang me up to find out whether the news published by the Statesman was correct, that I had asked some of my Cabinet colleagues to submit their resignations and they refused to do so. For your information I give you the following details.

Sometime back a poor man's child of 7 years old, fell ill. He took him to Kashmir Government Hospital. Dr. Parhar who examined the child diagnosed the disease as Meningitis and ordered his admission in the Hospital. The House Surgeon refused to admit him as according to him no bed was available in the ward. Next day when the patient's father brought him again to the Hospital he was given the same reply. The boy thus remained un-attended for a few days

and his father came to my office in desperation and started crying. Pandit Shyam Lal Kaul, Director Visitor's Bureau who was sitting in my office at that time took pity on him and took the patient and his father to the National Hospital in his car. Kaul Saheb also bought necessary medicines for him. Dr. Pashin tried his level best to save the child but it was too late and this innocent child died there. I drew Saraf Saheb's attention to this incident and asked him to see that the doctor responsible for this negligence was given due punishment.

Yesterday a Cabinet Meeting was held. Saraf Saheb gave me the Superintendent's report about the above mentioned incident. The report was far from satisfactory but Mr. Saraf tried to support those guilty of dereliction in duty. He stated that the Superintendent, Government Hospital reported that after the diagnosis the boy was sent to the Medical side and from there to the Surgical ward and while Physicians and Surgeons were discussing as to what treatment this child should be given the father went away with the patient. He added that they were sorry that discussions took so much time and that they would be more careful in future. Having heard this reply and Saraf Saheb's arguments, I was naturally perturbed. So I told Saraf Saheb that this was not the first instance which has given me reasons for being dissatisfied with his work and that other incidents were brought to my notice and I would like to hear what he had to say about the same.

The second incident reported was that, a few months back a clock was stolen from Hamdani Saheb's office. After investigations it was found that it was stolen by a menial of Mr. Saraf's office who has also distant relationship with him and who gave the clock to his (Mr. Saraf's) driver. Instead of being dismissed from service, he was nominally fined and was given a job in jail. I asked him if it was right to let him go without any punishment. Mr. Saraf replied that he gave full authority to Mr. Hamdani to give whatever punishment the person deserved. Mr. Hamdani stated that Mr. Saraf told him on telephone that he was sorry that this sort of crime was committed by a relation of his and as his honour was involved so he would like the case to be closed as early as possible. Mr. Saraf stated that the decision in this case was entirely left to Mr. Hamdani and that he did not think it proper to interfere. I told him that when he knew that the crime was committed and he also knew that the offender was not given adequate punishment for obvious reasons then it was his duty to dismiss him in loyalty to his Party and Administration. He Should

have brought the case to Prime Minister's notice. Saraf Saheb replied that he had to see the interests of the employee as well.

Third incident : Sometime back there were charges of embezzlement against the Executive Officer of the Pahalgam Notified Area. Besides this I received an application from Bakarwal alleging that his lost sheep was sold for Rs. 30/- by the Executive Officer to Plaza Hotel. I passed on this application to Mr. Saraf for investigation. He deputed Mr. Hamdani for the purpose. Mr. Hamdani found on spot (Pahalgam) that not only Bakarwal's charges against the Executive Officer were correct but there existed the charge of embezzlement against him as well. He reported that Executive Officer should be dismissed and investigation conducted against those who tried to hide the case. This report was submitted to Saraf Saheb on 17th July 1953, but so far no action had been taken by him.

I enquired from him the reason of his silence in this matter. He replied that he was not satisfied with the report. I pointed out that the investigation was conducted not by an ordinary officer but by one of our trusted colleagues who was his Deputy Minister as well. Executive Officer should have been at least dismissed and the matter brought to the notice of the Cabinet. Saraf Saheb replied that as police was still investigating the case so he did not want to dismiss the officer.

After hearing Saraf Saheb's reply about these incidents, I was convinced that his method of work was not good for the Government. I told him therefore to submit his resignation which he had not done so far and I have no idea as to who has given this news to the Correspondent of the Statesman. I also told my Cabinet colleagues that if Saraf Saheb would not submit his resignation I would place the whole matter before the Working Committee and General Council which were meeting soon and having taken their decision put it also before the Assembly Party since these bodies were final authorities to give decision in such cases.

It was Friday yesterday and as usual I addressed the Workers at Mujahid Manzil. There was great enthusiasm among people. Not only the Hall but its premises also were full. In my speech I reported the things I have been saying. You will find details in Khidmat.

Today I am going to Gulmarg for two days. I will be back on Monday. Conditions here are quite satisfactory and there is nothing

to worry about. It pleases me to see that people understand the moves of mischiefmongers. News given by Indian press is far from being correct. In fact they give their own view.

Rest is O.K. here.

Yours Sincerely,
Sd/-Sheikh Mohammad
Abdullah

N.B.

Being in hurry I have not kept a copy of this letter in my office
So please keep this safely.

(APPENDIX III)

1

Selected Abstracts from J & K State Legislative Assembly and Constituent Assembly official reports on debates held after 9th August 1953.

(The Assembly Secretariat publishes official reports of proceedings in Urdu and English. They are not easily available to the public. After the 9th August, 1953 the staggers of the most undemocratic and cowardly coup were eager to prove to the world that their regime was "democratically" backed up and so wanted to legalise their action ! So on 5th October 1953 at Srinagar the Legislative Assembly was convened to secure a vote of confidence from the House ! Official report of proceedings of this meetings are not available. What has been its fate is well related in the following abstract of the Proceedings of the Legislative Assembly.

Official Proceedings Volume 8 No. 2, February 4th 1954 (English Version)

"Mr. Abdul Ghani Goni :—Mr. President, before I express my views on the reports, I would like to thank my leader Hon'ble Bakshi Ghulam Mohd. for providing me with an opportunity to express my opinions before the House.

"Bakshi Ghulam Mohd :—It is your right.

"Mr. Abdul Ghani Goni :—Considering the extravagant way, section 3 is used here, I would not have had the opportunity to express my views before the House, had it been used in my case as well. Moreover, I would like to submit, Sir, that being the custodians of peoples' interests we should voice their feelings.

"So far as the facts are concerned, after the August revolution of 1953, a session of this House was held at Srinagar. I have before me a copy of its proceedings, which bears the title "Unanimous vote of confidence in Bakshi Government." My photo as well as my speech are given on page No. 27 of this Report. But the critical remarks I had made in my speech are not to be found in this pamphlet. In that speech I had remarked that the responsibility for the recent change in Kashmir lies on the shoulders of the communalistic parties of India.

"In this connection Dr. Khare speaking at Nagpur on the 6th of August 1953 had suggested the dismissal or arrest of Sher-i-Kashmir, Sheikh Mohd. Abdullah. A conspiracy on these very lines was

hatched here, resulting in the dismissal and arrest of our beloved leader. This portion of my speech has been omitted from the report. I had also disagreed with the constitutional points raised by my friend Mr. Mir Qasim in his speech. I had pointed out that I was in disagreement with the constitutional aspect of the discussion, but since the House had expressed its agreement with it, I had but to agree. This portion of the speech has also been omitted. As I have already submitted that we being the representatives of the people, our speeches should be preserved, but looking at the Pamphlet "Unanimous vote of confidence" I find that the Information and Broadcasting Department has not lived upto its reputation while compiling this report. Partially the responsibility of this omission also lies on the Assembly Secretariat. It is quite possible that the I & B Department might have been wrongly informed by this Secretariat. It goes without saying that the I & B Department has not done justice to my speech.

"Mr. President:—The Pamphlet referred to by the Hon'ble member is not in reality the report of the Assembly proceedings, but a Pamphlet, issued by the Publicity Department. Since Hon'ble member has referred to the Assembly Secretariat, there is a room for misunderstanding, that his speech had not been recorded in the Assembly proceedings. This is not true. The proceedings of the Session have not as yet been published.

"Mr. Abdul Ghani Goni :—Thank you Sir, I hope that my full speech will be published in the Assembly proceedings. We are the representatives of our country and are discussing its future. I will therefore submit that the Reporters be instructed to note down our speeches correctly.

"Mr. Abdul Khaliq Butt :—Sir, After an Hon'ble member makes his speech, the Reporters submit the speech to the Hon'ble member for approval and his signature. Has not the Hon'ble member signed his speech which he delivered during the last session ?

"Mr. Abdul Ghani Goni :—Would that the speech is placed before me, so that I could show it to the rest of the Hon'ble members."

"Even though 5 months had passed since 5th October 1953 session, when it is alleged that "Unanimous vote of confidence" in the new regime was passed—the Legislative Assembly Secretariat had not yet been able to publish official report of the debate though they

have published proceedings of all subsequent sessions!! One doubts whether even now after 30 months the Legislative Assembly report will ever see the light of the day and will it be available to the public to know what really had happened?

2. Mr. G. N. Wani (Lollabi) whose name was included in the list of persons, detained alongwith Sheikh Abdullah, submitted to the Jammu and Kashmir Legislative Assembly on October 6, 1953, was found sitting on the Treasury Benches the same day. How this somersault occurred will be plain when one reads the version of his alleged speech on 5th October, when Bakshi Saheb secured a "Unanimous vote of confidence". The following is the version (not official) of Mr. Wani's speech as contained in the booklet released by Information & Broadcasting Directorate of the Jammu & Kashmir Government :

"Many fantastic rumours are afloat about the recent turnover in the Ministry. The enemies of the National Conference spread false and fantastic stories about it and paint the developments black before the world. Really speaking, this change should have come much earlier. But personal loyalties and other considerations prevailed in the organization and the required action was put off. The fact is, that the rift had set in the party long ago and the Working Committee was busy thinking out a solution to this grave problem. The Congress leaders showed an appreciable concern in the matter. Pandit Nehru and Maulana Azad used their good offices in bridging the gulf in the organization, but to no avail. The gulf widened, and the Sadar-i-Riyasat rose to the occasion and effected a salutary change.

"This change was not, therefore, brought about by any external agency but by the National Conference itself, which voices the feelings of the entire people. The enemy has been busy fomenting strife in the organization which is too strong for such machinations. The National Conference has set before itself the ideal of "New Kashmir" and if the present Government also makes a departure from this chosen ideal of the organization, it will not hesitate to take action against it as well.

"With these words, I once again support warmly the motion and pray to God that He may in His mercy guide the National Conference and the leader of the House in achieving our cherished ideals and objectives."

The Proceeding of J. & K. Legislative Assembly, Official Report 18th October 1954 vide Vol. VI. No. 1, pp. 56 & 577 :

"Mr. Speaker ;

"Before further business of the House is taken up I would like to draw the attention of the Hon'ble Member to the two adjournment motions brought forward by Mr. Hakim Habibullah and Hon'ble Ghulam Mohi-ud-Din Hamdani. The adjournment motion of Hakim Habib-Ullah reads :—

"That the proceedings of the Assembly be adjourned to enable discussion on the arrest of all political detenues."

"The adjournment motion of Mr. Hamadani is :—

"That the business of the Assembly be adjourned to discuss the desirability of the arrest of the detained members of this Assembly.

"I would like to ask Mr. Habib-Ullah what is the rule under which he wants to move his motion.

"Hakim Habib-Ullah : Under Rule 33 Sir".

"Mr. D. P. Dhar (Deputy Home Minister) : Sir, Rule 33, (a) prescribes a specific procedure for moving an Adjournment Motion and there are certain essential conditions which must be fulfilled before an Adjournment Motion can be admitted: In this case so far as the first Adjournment Motion given notice of by Mr. Hakim Habib-Ullah is concerned, you will notice sir, that it is worded in a manner which makes it extremely vague. The wording of his motion is :

"I move that the proceedings of the Assembly be adjourned to enable discussion on the arrest of all political detenues."

"Under Rule 33 of the Rules of Business and Procedure, as I have submitted earlier, one of the most essential conditions for admitting an adjournment motion is that it must raise an issue which is of a definite character. Secondly it must touch upon a matter of urgent public importance. I believe this motion fails to satisfy both these conditions and is, therefore, not in order.

"As far as the second adjournment motion is concerned I will discuss it when it is taken up later. On these grounds I would submit, Sir that the Adjournment Motion may kindly be ruled out of order.

"Mr. Speaker : I have already read out the adjournment Motion of Mr. Habib-Ullah. I think there are some pre-requisites for an

adjournment motion and it should refer to the discussion of a definite matter of urgent public importance as provided in Rule 33. Then there is sub-rule 2 of Rule 34 which lays down that not more than once matter shall be discussed on the same motion, and the motion shall be restricted to a specific matter of recent occurrence. As regards the question of political detainees two sessions of the Assembly have passed since they were first detained. How can this matter be considered a matter of a recent occurrence when so much time has passed. Secondly this adjournment motion is very vague. On these grounds I declare this motion out of order.

"Mr. Hamdani : may I know the rule under which you want to move your motion ?

"Mr. Hamdani : Under Rule 33, Sir."*

II

CONSTITUENT ASSEMBLY PROCEEDINGS

(Translated from official Urdu Reports.)

Tuesday, October 20, 1953.

Srinagar Session (October 1953)

Constituent Assembly session held at Assembly Chamber, Srinagar at 11 a. m. under the Chairmanship of Hon'ble G. M. Sadiq.

"Hon'ble President : Mr. Abdul Ghani Goni has given notice for an Adjournment Motion. (Addressing Mr. Goni) Would you move it ?

"Mr. Abdul Ghani Goni : Sir, I move that the session of the Constituent Assembly be postponed till such time as the Members of Assembly arrested after 8th August 1953 are released.

"Hon'ble President : May I know as to under which rule the Hon'ble Member is giving this notice ?

"Mr. Abdul Ghani Goni : Sir, I move this according to Section 25, Article 5, Sub-Clause (a) (page 12) and Section 26 of the Procedure of Conduct and Administration of the Constituent Assembly.

"Hon'ble President : Do you ask for permission under Section 26 ?

"Mr. Abdul Ghani Goni : Yes Sir.

*At this stage discussion took place on the Rules. In the end Messrs. G. M. Hamdani, Hakim Habib-Ullah, Ghulam Rasul Rawa and Ghulam Nabi Badgani staged a walk out.

"Hon'ble D. P. Dhar : Sir, on a point of order, the manner in which this motion of adjournment has been presented, does not satisfy the needs of Section 26. Sir, if you allow me I will read Section 26. It runs as "To adjourn the Assembly on such a matter which is not on the agenda of the Assembly or which is not connected with the proceedings of the Assembly, no motion of adjournment can be raised." According to Section 26 discussion can be held on such matters which are either on the agenda or are connected with the work of the Assembly. Permission has not been sought for discussion on the adjournment motion. It only suggests that the proceedings of the Assembly should be postponed till such time as some Hon'ble Members of the Assembly who are under arrest are not released. Therefore, discussion under Section 26 is irrelevant. Therefore, Sir, I feel that this motion of adjournment is out of order.

"Hon'ble Abdul Ghani Goni : Sir, I submit that this adjournment motion is exactly according to Section 26 and is connected with the work of the Assembly, specially when I see the agenda which contains dismissal motion of two committees i. e. Basic Principles Committee and the Fundamental Rights and Citizenship Rights Committee and their Chairmen.

"On the basis of this clarification I think my motion is in order.

"Under the rules, it is the duty of the president to safeguard our rights.

"Hon'ble President: Would the Hon'ble Member read the text of his motion?

"Mr. G. M. Hamdani : Sir, on a point of order. This is a matter of great importance. So I request that the proceedings of this House be conducted in Urdu.

"Mr. Abdul Ghani Goni : Alright Sir, I will speak in Urdu.

"Mr. Abdul Ghani Goni : May I state that the object of my adjournment motion is that until.....

"Hon'ble D. P. Dhar : Would you please tell this in English ?

"Mr. Abdul Ghani Goni: Sir, I have already first read it in English moving that the proceedings of the Assembly should be postponed till such time as the Members of the Assembly arrested after 8th August 1953 are released.

"Hon'ble President : Now, would the Hon'ble Member read Section 26 ?

NOTE : Hon'ble Member read out Section 26.

"Mr. Abdul Ghani Goni : Sir, I submit that this motion is according to the Agenda.

Hon'ble President : Objection is not on this that the motion is not connected with a matter which is not before the House or is not on the agenda. In the adjournment motion request has not been made to adjourn the House to discuss some special subject but instead it has been asked to adjourn the House. If the Hon'ble member wishes to speak on this point, he may do so.

"Mr. Abdul Chani Goni : I desire that my adjournment motion clarification of which I have given, should be discussed in the House.

"Hon'ble President : We are not concerned with the desires of the Hon'ble Members in this House.

"Mr. Abdul Ghani Goni : That is the object of my motion.

"Hon'ble D. P. Dhar : Sir, whatever has been said by the Hon'ble member can be divided into three parts.

"Firstly, as regards the desire of the Hon'ble Member I find that the manner in which the adjournment motion has been drafted unfortunately does not duly explain his object and purpose.

"Secondly, I fear that the matter mentioned in the adjournment motion is itself doubtful. Because the Hon'ble Member does not want to discuss any other matter which is connected with the proceedings of the House. He wants that the proceedings of this independent House be postponed till that time about which he himself is not clear. In other words by this adjournment motion we are asked to end the supreme authority of this House and wait for an indefinite period.

"Therefore I request that as far as the wording of this adjournment motion is concerned, it does not satisfy even the minimum needs of Section 26.

"Mr. Abdul Ghani Goni : Sir, I protest against the remarks of Mr. D. P. Dhar that I have challenged the authority of this House.

"This matter is connected with this Assembly. You are dismissing a committee which has done much work and proceedings of which have been published in the newspapers also.

"Hon'ble Mir Qasim : Sir, I am not aware of the fact that this report has been published in the newspapers.

"Mr. Abdul Ghani Goni : I can present those newspapers where-in this report has been published.

Members of this House have worked in this committee and a great amount of money has been spent on it. Instead of presenting the report of this committee a new committee is being formed.

"Hon'ble Finance Minister : Sir, is he speaking on the motion of adjournment or is he preparing ground for this case ?

"Mr. Abdul Ghani Goni : I am speaking in order.

"Hon'ble President : Mr. Abdul Ghani Goni gave a notice for the motion of adjournment which meant that the proceedings of this House should be postponed till such time as those Hon'ble Members of this House who are under arrest are released. Mr. Goni presented this motion of adjournment under Section 26 of the rules and regulations. It is clearly written in it that to adjourn the Assembly, a motion of adjournment can be raised on such a matter which is on the agenda of the Assembly or is concerned with the proceedings of the Assembly. As far as Mr. Goni's motion of adjournment is concerned, as I said before, the greatest objection which can be, is that he did not mention this in his motion that he wants a discussion to be held on this matter and wants some time to hold discussion on that matter by postponing the proceedings of this House. It is clear from the words of the motion that he wants this House to adjourn for an indefinite period or till such time as the detained members are present in the House. I am sorry I can't help Mr. Goni because his motion does not satisfy the requirements of Section 26.

"Mr. Abdul Ghani Goni : Sir, I and my supporters walk out as a protest.

*Note :—*The following Hon'ble Members walked out of the House :

1. Mr. Abdul Ghani Goni
2. Mr. Ghulam Mohiuddin Hamdani
3. Khawaja Nooruddin Daar

*Note :—*On this date individual Members in Opposition were seven who walked out of the Session and six under detention. Total 13. If there had been no pressure tactics, there might have been more.

4. Mr. Ghulam Rasool Kaar
5. Master Ghulam Ahmed (Poonch)
6. Master Ghulam Mohd. Mir (Salar) and
7. Mr. Ghulam Nabi Wani (Bedgami).

(The House then proceeded with other business)

Constituent Assembly Proceedings, J. & K. State.

Wednesday, February 3, 1954

Jammu Session 1954

Constituent Assembly session held at Assembly Chambers, Grey Hall, Jammu, 11 a. m. under the Presidentship of Hon'ble G. M. Sadiq.

"Mr. President : Mr. Mir Qasim !

"Mr. Mir Qasim : Sir, I move that the report of the Basic Principles Committee be taken into consideration.

"Mr. S. L. Saraf-I second the motion

"Mr. Abdul Ghani Goni : Sir, on a point of order, I want to say that the mover cannot ask for the consideration of the Report of the Select Committee until he has presented the Report itself formally to the House. Then for taking the Report into consideration, it is necessary that the draft report copies are circulated to the members three days before presentation. If this is not done then a member can object and the objection should be upheld by President, unless you exercise your special powers and order that the Report be taken into consideration.

"Sir, The Report that has been presented for consideration is an extremely important document. Copies of it should have been circulated amongst members at least three days in advance, but instead it is given to the members a few minutes before its presentation. I request that consideration of the Report be adjourned at least by three days to enable members to study it. This is very necessary.

"Other members also supported Mr. Goni's request for adjourning consideration of the Report. After some discussion, the President said : Two important reports have been presented before the House, on which depends the future of the country. In this connection members of the House met me individually and expressed the view that the Report should not be discussed to-day. I consider this request is just and if the House has no objection we shall adjourn till tomorrow.

The House agreed to adjourn till the next day".

Treatment meted out to M. L. As outside of the Assembly

Mirza Mohamad Afzal Beg, Ex-Revenue Minister in Sheikh Saheb's Cabinet was released on November 30, 1954 when his health had broken down. All people who welcomed him on his release were threatened in various ways and abused. Certain Government officials who visited him were forthwith suspended, and others transferred. A Government School teacher, coaching up children in his house was forced to give up his job.

Beg's house had been under constant vigilance since his release and visitors were harrassed endlessly and threatend with dire consequences. When he entered a hospital in Srinagar for diagnosis and treatment, unruly elements were posted in the hospital premises who indulged in filthy abuse against him and so he had to give up visiting the hospital and had to call the doctors to his residence.

A number of village headmen were suspended for failing to deter people from visiting Mr. Beg. A number of workers who visited his house and came away were mercilessly beaten up by the Police and their blankets and cash were taken away. A few were taken to the police station where again they were beaten up, warned not to visit Mr. Beg any more and let off late in the night. Members of the Peace Brigade also harrassed and manhandled workers who had visited Mr. Beg and relieved them of their cash.

Another time, hired gundas surrounded the house of the host where Mr. Beg was putting up, hurled the most filthy abuse at the members of the Host's family and threatened to kill all his children and set fire to his house. They also threatened to kill Mr. Beg himself. When it became known that Mr. Beg would attend the Jammu session of the Assembly, members of the National Conference openly threatened that they would make it impossible for him to attend the session or leave the Kashmir valley.

When Mr. Beg paid a visit to the father of Khawaja Mubarik Shah, M. L. A., when he was in detention, at Baramulla, he met some friends too. A large crowd collected and welcomed him. A policeman immediately rounded up some stooges of the Bakshi regime and they indulged in abuse. When the people shouted "Sher-i-Kashmir Zindabad" the police arrested two men and when they were let off in a Magistrate's court, they were re-arrested under the preventive detention Act.

Beg Saheb was re-arrested and detained on 19th November 1955.

Mirza Gulam Mohamed Beg, known as Zaildar Saheb.

On his release from jail and return to his home town, Sarnal, he was accorded a warm reception by the people. They greeted him with slogans, "Sher-i-Kashmir Zindabad" and "Zaildar Saheb Zindabad." On May 25, 1955, members of the Peace Brigade went about the town and indulged in criminal activities. Three shop-keepers were beaten up mercilessly. Respectable persons of the town were abused in the most filthy terms. These people entered the shop of another citizen during his absence maltreated his wife, insulted his daughter and took away cash from the box. They also told the inmates that their house would be set on fire.

At Islamabad in Anantnag, unruly elements beat up citizens for having celebrated the release of Zaildar Saheb. Open threats of arson and death were held out against those who sympathised with Sheikh Abdullah !

Ghulam Rasool Raina : Ever since August 1953, he has been the target of vilification and harrassment all around. Attempts were made to involve him in some criminal cases, but all failed. He was asked by officials to give up his allegiance to the opposition and fall in line with the National Conference party or be prepared for the worst.

Statement in "Sach" Urdu Weekly Jammu, dated 27th April 1956 states the latest :

Unnecessary and illegal harrassment and oppression of the relatives of Opposition Members in Kashmir Assembly by Police and the National Conference.

"Aara, Kulgaum (Kashmir), Mr. Ghulam Rasul Raina, M. L. A., (Opposition) has sent us an awe inspiring letter in which he writes in details all about his detention and the behaviour meted out to his relatives after his release on Parole.

"He writes that when he reached his house after attending the Assembly session in Jammu he was shocked to know that prior to his arrival his relatives and friends were frightened and oppressed and forced not to talk to him when he reaches home. They were not only harrassed, but threatened with arrest in case they talk to him.

"Mr. Raina has even alleged the police for taking hundreds of rupees from his relatives as bribe.

"He writes in his letter that this has been done because they are friends and relatives of one who belongs to the Opposition in Kashmir Assembly."

ERRATA

Sheikh-Sadiq Correspondence

Page No.	Para	Line	Read as	Instead	Coma, Dash etc.
1	1	1	Reports	Report	
2	2	4	.		Insert (,) after country.
3	2	5	Movement	Mevement	
3	2	23	Support	Tupport	
3	2	24	Affairs	Affajrs	
5	2	3	Lose	Loose	
5	3	6	Assembly	Assemcly	
5	3	13	Distorted	Distorted	
7	5	8	Dissociation	Disassociation	
9	3	6			Mr. before M. A. Beg.
10	4	7	State	Saite	
11		1			add 'in' after "set in"
11	4	4	Throughout	Throughtout	
12	2	1			insert full stop after, looked after
12	4	6	Describe	Described	
13	1	2	Enemy	enemy	
15					add "yours Sincerely" before G. M. Sadiq.
16	2	1	1953	1955	
16	3	2	were	was	
17	2	1			full stop after October.
17	3	1	addressed	addresseed	
18	3	5	8 man	8 men	
20	1	1	whatever	whatevar	
20	2	6	Pandit	andit	
20	4	7	your	you	
21	5	1			put full stop after alerted
21	5	3			put full stop after area.
21	6	8	Asoka	Ashok	
22	1	3	Kashmir	Kasmir	
23	2	8	and	but	
23	7	4	neither	not	
24			Abdullah	Abdllah	
25			From	To	

(ii)

Page No.	Para	Line	Read as	Instead	Coma, Dash etc.
25	1	4	clarify	clearify	
26	3	5	was as I	as I	
26	2	1	Apart	A part	
26	3	10	Naught	Nought	
28	1	13	Rapproach- ment	reapproachment	
28	2	4	eight-man	eightman	
30	1	15	cannot	Can not	
30	1	15	Judgement	Judgment	
33			October 1956	6	
33	2	6	of facts	on facts	
33	4	4	commission	comission	
34	1	8	fresh	first	
35	2	4	to	ro	
35	2	6	Defence	defence	
35	3	4	memoranda	memorandum	
35	3	1	against	againt	
35	4	4			add after form "A record of the official minute book of."
35		4	8-man	8 men	
36	2	1	reiteration	retention	
36	2	3	earlier	eralier	
36	3	4			add "you" after refrained
40	2	3	behove	behave	
Appendix—I					
41	4	3	settlement	settlemnt	
42	4	2	proposal	porposal	
43	2	7	therefore	thefore	
45	3	15	groan	grind	
45	1	7	good-will	goodwill	
46	2	8	Kashmir	Kashmi	
Appendix—II					
48	1	2	Mr. Ghulam Qadir	Ghulam Qadir	
49	4	6	that	with	
Appendix—III					
54	1	8	meeting	meetings	
54	1	8	is	are	
54	5	1	connection	coonection	
54	5	3	lines	iines	
57		2	57	577	
58	1	4	one	once	
58	Foot note	2	Raina	Rawa	
58	"	"	Badgami	Badgani	
59	8	1	object	obect	
64	5	1	Kulgam	Kulgaum	

No. 3/1958.

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